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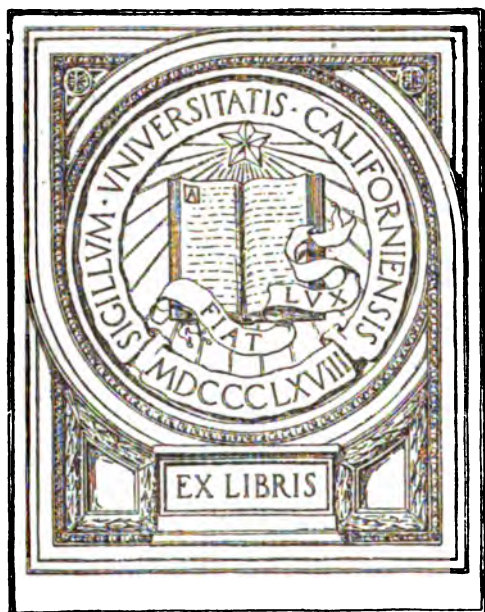
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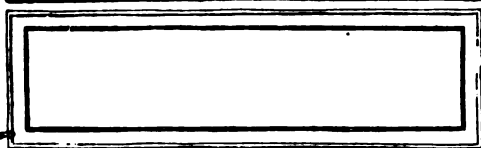
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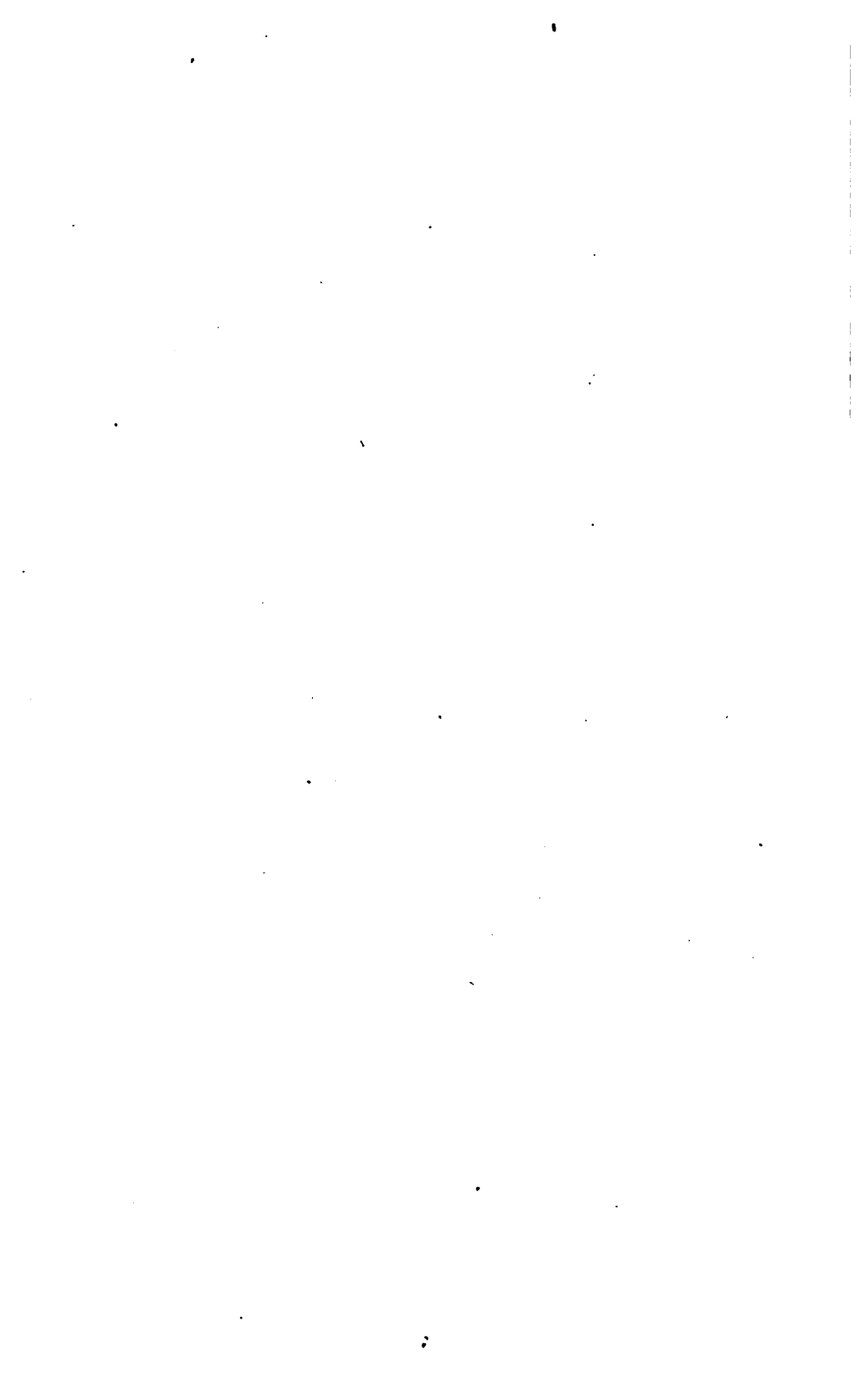
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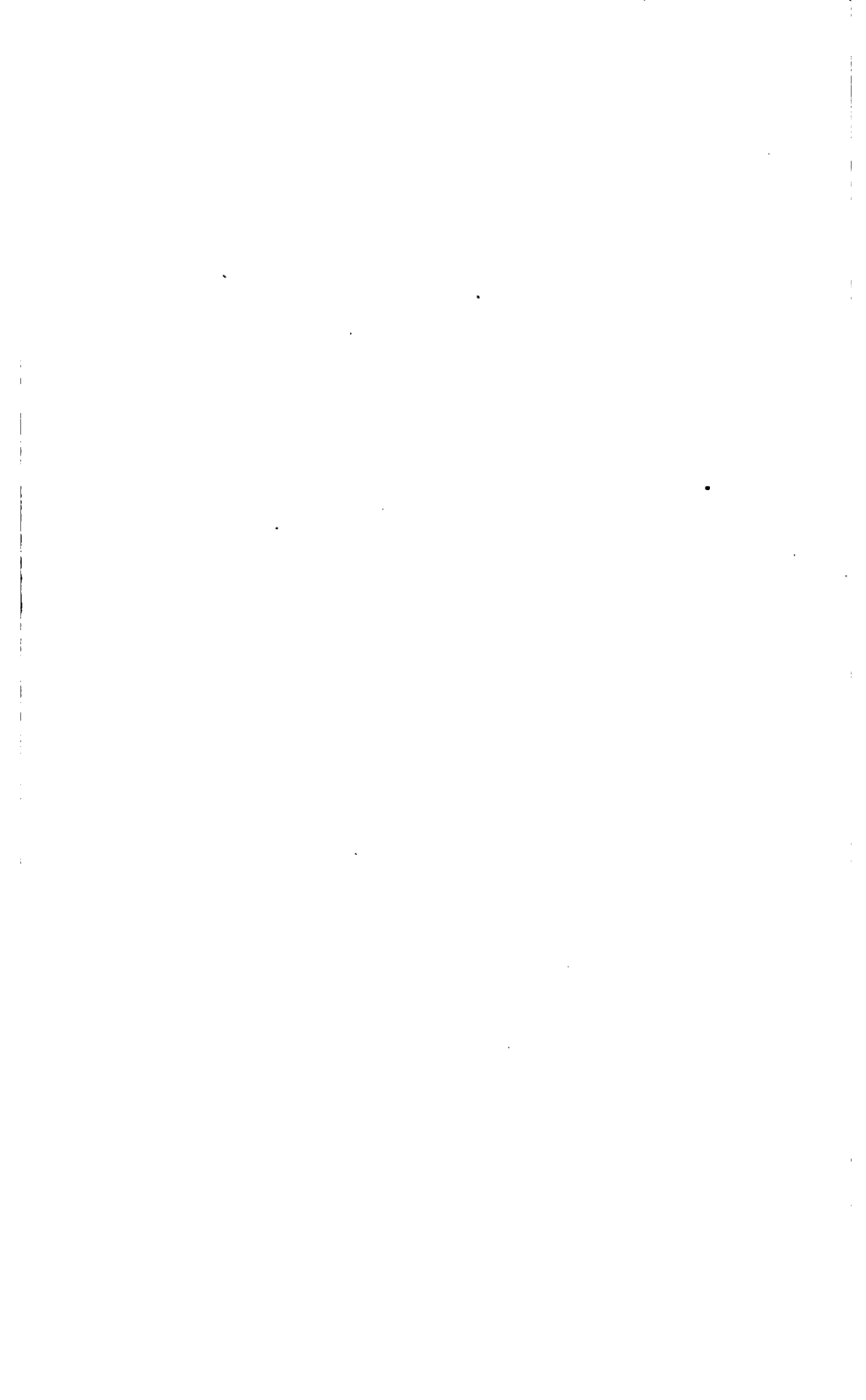


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INTERNATIONAL RELATIONS

BY

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INTRODUCTORY

The relations of nations and of people to each other are determined by the sum total of human progress and of the ideals which lead men to happier lives and more useful activities. In the march of civilization law-makers of necessity follow rather than lead. The great inventions which arouse the imagination are the pioneers. The mariner's compass pointed the way over the unknown seas and gave assurance that whatever course was taken might be retraced. To it and the spirit of adventure it aroused the world owes the conversion of the ocean from an impassable barrier, separating the continents into different worlds, to a great universal thoroughfare connecting every port of every land with every other port. Following the discovery of America and the settlement of Europeans along its coasts came colonial problems to the statesmen of Europe and the necessity of changing their theories of rulership by arbitrary force for a system affording the people of the colonies some measure of liberty in the regulation of their affairs. With no means of communication between the two continents but sailing vessels, there was such partial isolation as induced the growth of new customs, modes of life and ideas of social relations. In time these became so distinct and firmly established that the colonists would not submit to the ill-advised measures of the governments of the parent countries. The result was political separation and the organization in the western hemisphere of republican governments now numbering twenty-one.

Political separation has not been followed by isolation. Soon after it took place the relatively small and slow sailing vessels which had brought settlers by tens and by hundreds were supplemented by the great steamships transporting them swiftly and safely by thousands. With the aid of the steam-engines in use during the nineteenth century for the first time in the history of the world, Europe and America were drawn closer and closer together, till the manufacturing and commer-

cial states of the former became dependent on the latter for a large part of their daily food and material for their industries. The stream of migration swelled until more than a million people a year crossed the Atlantic to make the United States their home. The discovery that instantaneous communication could be carried on by means of a broken electrical current transmitted over a wire, and that by insulation of the wire the current could be transmitted through the water, led to the laying of the great cables across the ocean. Through these correspondence between governments and individuals became instantaneous. The breadth of the ocean interposed no obstacle and caused no delay in the transmission of messages. The many inventions through which the great printing presses were perfected and the organization of the press associations made possible the great daily papers giving to the public on all continents news of the events in every part of the world. Wireless telegraphy has now extended this instantaneous communication to and from the ships on the sea. Combining the use of the broken electrical current with that of the explosive force of ignited gas the long dreamed of horseless carriage and flying machine afford rapid transit over land and still more rapid movement through the air. The shore lines place limits to the ocean highway, but the thoroughfare of the air has no boundaries or limitations. Neither political boundaries nor natural obstacles bar the aviator's passage. National isolation is a condition of the past. All theories of government and of social organization based on it are obsolete. The world is one and the relations of its peoples must be adjusted accordingly. No man is entitled to the name of statesman who does not think in terms of the whole world and all its people. Inventive genius, private enterprise, and personal daring, have ushered in the new age of universal fellowship. Under this leadership the march of civilization moves on at a rapidly accelerated pace, obstructed more often than aided by the action of rulers and law-makers. The inspiration of these changed conditions points to moral advancement corresponding to the marvelous changes in the material world. Statesmen without clear vision of the moral as well as material aspects of the problems pre-

sented to them in readjusting international relations have no right to sit in the conferences through which the new relations are to be adjusted.

The design of this work is to present as clearly and concisely as possible the ancient and modern conceptions of a nation, the attribute of ultimate sovereignty claimed for it, its composition and boundaries, the laws and customs followed in international dealings and, more particularly, the modern progress in regulating international intercourse by international conventions, efforts to prevent war by arbitration and mediation, and to mitigate its barbarities when it does come. In order to present the exact situation existing at the outbreak of the great war the important general conventions which were then in force have been copied in full. These disclose the wonderfully rapid progress which has been made within the last half century in international cooperation on land and sea for the safety and welfare of all. The work closes with the peace treaty and the constitution of the league of nations.

The natural method of treating the subject of government and the relations of states is to begin at the beginning and trace the development of governmental systems down to the present time, but this cannot be done. Aristotle says—"Now if any one would watch the parts of a state from the very first as they rise into existence, as in other matters, so here he would gain the truest view of the subject. . . . That society then, which nature has established for daily support, is a family. . . . But the society of many families, which was instituted for lasting and mutual advantage, is called a village, and a village is most naturally composed of the emigrant members of one family. . . . And hence by the way states were originally governed by kings, as the Barbarians now are; for they were composed of those who always were under kingly government. For every family is governed by the elder as are its branches, on account of their relationship; and this is what Homer says:

"Then each his wife and child doth rule
for in this scattered manner they formerly lived."¹

¹ Aristotle's *Politics*, Book 1, Chapter 2.

The family taken by Aristotle as the starting point of his state consisted of a man and his wife, children, and slaves, whom he ruled. Following in the same line of thought Taylor says—"The most important single result so far attained by the application of the comparative method to the study of political institutions is embodied in the discovery that the unit of organization in all the Aryan nations, from Ireland to Hindustan, was the naturally organized association of kindred—the family swelled into the clan—which in a settled state assumed the form of a village community."²

✓ The paternal theory of government, so prevalent in all Asiatic countries, is based on rulership of the family by the male head of it. Most writers are content to take the family as the starting-point of all political organization and to build tribe, gens, village, city and state on it as a foundation. Instances of such development in great number may be cited from Hebrew, Greek and Roman history, but when we consider that Greek and Roman history only reach back a scant hundred generations, and Hebrew records perhaps fifty more, and that all the records we have started after a period of intellectual activity sufficient and continuing long enough to produce a written language, it becomes evident that, in relation to the unnumbered ages since man appeared on earth, all history is modern. We have no really ancient history and know nothing about really old civilization. We have, however, records of the rise and fall of nations in many diverse ways in great number. Apparently the Egyptian and Chinese records reach farthest back of all, but of course they fail to reach the beginning, and start with a considerably advanced state of society which has been followed by many radical changes. Abraham went out of Ur, a city of the Chaldees, with his family, and settled in Canaan and became the founder of the Hebrew nation.³ He did not spring from primitive conditions, but came out of Chaldea with his family and herds to seek more favorable surroundings. His grandchildren, from whom sprang the twelve tribes of Israel, went into captivity in Egypt,

² International Public Law, Taylor § 7.

³ Genesis XI-XII.

a highly civilized and productive country, from which their progeny in twelve tribes were led into Palestine by Moses. There they established a permanent settlement with a theocratic government and division of the land among them by tribes.⁴ This division into tribes persisted for many centuries in accordance with the laws of Moses relating to the tenure of their lands. No such division appears to have been maintained either in Egypt or Babylonia. In those rich and populous countries the people were classified according to official position, wealth, and occupation, and subject to despotic governments ruling over all of them.

In the early settlements of Greece there were tribal growths from which city states developed. As manufactures and commerce grew tribal divisions in the principal cities disappeared. Rome started from its three tribes, but when it became a great city the usual differentiation along class lines took place, and a very large part of the population was made up from outside districts and countries. These are prominent instances of national beginnings from tribal sources. Many others concerning which our information is not so full might be mentioned. Neither of those mentioned is a case of what may fairly be called primitive people. All of the tribes mentioned proceeded out of civilized countries in which the family relations were clearly defined by law. Abraham was the head of a polygamous family and had wives, children and servants in accordance with the established law of his country. The Greeks and Romans had advanced from polygamists to monogamists, but included slaves as a part of the household. Aristotle assumed this to be the natural composition of a family. ✓

Generally tribal development takes place under conditions of comparative isolation and poverty, and disappears with dense population and much accumulation of wealth. This is equally so whether the progenitors of the tribe come out of a civilized state or break off from a savage tribe. The Indians of the Americas, the natives of the poorer regions of Africa, the Asiatics in the desert and pastoral countries, exhibit persistent divisions into tribes, of which some are destroyed in wars, by

⁴ Numbers Ch. 34-35 and 36.

famine, or pestilence, while others increase in numbers, separate and send out branches from which new tribes are formed. Indolence and improvidence furnish no foundation for an extensive governmental structure or an elaborate system of laws. So long as these are general conditions, war, pestilence and famine, prevent great increase of population and restrict ideas of government to mere tribal organization, with here and there a confederacy for mutual aid in war.

The confederacy of the Iroquois was formed of the tribes settled in the game filled forests of New York near lakes and streams filled with the best of fish. Before the advent of the Europeans the Mexicans, though without a written language, had made much progress in agriculture and manufactures, and had a well organized government, exercising executive, legislative, and judicial functions. In Peru the unique socialistic despotism of the Incas proved its wonderful efficiency by the great public works and accumulation of supplies in the public warehouses which were found by the Spaniards. Whichever may be regarded as the cause of the other, industry, thrift and increase of population on one hand, and governmental organization on the other, attend each other. In the numbers of its people China leads all the nations. Industry and thrift from time immemorial have been characteristics of its people. From very early times it has had a very complicated governmental system with a multitude of officials. There, in India, and most of the rest of Asia, as well as in eastern Europe, the village system with its tribal characteristics still persists outside the great cities. In western Europe, over which Roman dominion and culture extended, there are few survivals of tribal relations, the exceptions being in the mountainous districts and among Germanic tribes.

On the American continent there have been no tribal developments in the settlements made by Europeans. The influx of people has been so rapid and in such numbers that political organization has started as a conscious combination of representatives of many families for governmental purposes. Most of the savage tribes were pure democracies, in which public matters were determined by the general assembly of the tribe.

This democratic spirit pervaded the European settlements in America and public concerns were discussed and determined in the town and county gatherings. The more general concerns were considered and dealt with by assemblies of representatives, modelled somewhat on the plan of the British Parliament, but without its hereditary nobility. The United States may fairly be called a pioneer in conscious government building, but, nevertheless, with an imported foundation of conceptions of law brought from England.

In tracing the transmission of ideas concerning social relations we find that the Hebrews brought much with them out of their ancestral home in Chaldea and borrowed some from the land of their captivity, Egypt. The lively Greeks brought with them the customs and traditions of their Asiatic ancestors, and their statesmen and philosophers studied the political institutions of Babylon, Egypt, Crete, Asia Minor, the Phoenicians and their great colonies, and of all the people dwelling about the Mediterranean Sea. The Romans, though more advanced in their governmental work, were students of the Greek philosophers and profited greatly from their teachings. All Europe and America have the benefit of the light that has come to them from Palestine, Greece and Rome, and at the same time of the wider view which includes the civilizations of India, China and Japan, and the yet more important lessons drawn from the experience of a whole world now open to the view of all, and supplied with facilities for instantaneous communications between the most remote nations.

While the prevailing conception of a state both in ancient and modern times has relation to a fixed territory, there are instances of migratory nations, the first accounts of which are of organized masses of people, either allured by some more attractive country or driven from their own by some superior force. Such were the Aryan conquerors of India, who moved down from the northwest and spread over the great peninsula. Such have been the hordes pouring into Europe across the grass lands of southern Russia.

The Romans had more practical wisdom in political affairs than the Greek philosophers, whose central purpose was to

build states with enduring governments, each thoroughly equipped for defense in war. Beginning with the conquest of the neighboring Latin people, the Romans treated them as allies rather than subjects, with equality of right in the acquisition of land and chattels and in trade. This relation, established during the early monarchy, continued under the republic. As other conquests were made Latin rights were accorded to some of the conquered districts but not to all. As Roman power was extended four classes of communities came into existence within the Republic:

1. Roman, with full Roman citizenship, which however could only be exercised in political affairs by the citizen in person at Rome.

2. Latin rights, with municipal freedom and local government corresponding in form to that of Rome, but in all matters of foreign policy, of peace and war, under the guidance of Rome, and prohibited from all other alliances within or without the Republic.

3. Communities whose members were citizens *sine suffragio*, included in the census, but neither entitled to vote or hold office.

4. Non-Latin communities with varying rights depending on treaties or Roman decrees.

By conquest and by diplomacy the sovereignty of Rome was extended over southern and western Europe, northern Africa, Asia Minor, Syria, Armenia and all the islands of the Mediterranean and other interior Seas. A single sovereignty was thus extended over all the great western nations and all the little city states among which destructive wars had raged from the most remote time. No nation approximated Rome in strength. For all this vast territory Rome furnished law and forbade conflicts between its dependencies. Far away Persia and the barbarians of northern and eastern Europe waged war at times, but there was little room for the play of international law between the Roman Empire and its relatively weak neighbors. The *jus gentium*, law of nations, of the Romans was law governing internal, not external, relations. Its principles were gathered from the nations taken into the Empire and out

of these the jurists sought to extract *jus naturale*. China and India, though large and populous, were so remote and little known as to call for no regulation of intercourse or relations. During the continuance of the Roman Empire in substantial integrity Europe presented no field for the growth of international law. The rise of Mohammedan power based on religious zeal was contemporaneous with the later period of the decay of the Roman, and religious intolerance on both sides rendered any profitable discussion of international relations impracticable. Roman civilization became obscured, and over most of the Empire utterly obliterated, as the waves of barbarians from the German forests and over the steppes of Russia swept over it. Charlemagne built a great empire by his military genius, but it was dependent on his personality and crumbled in the hands of his weak successors. Jenghis Kahn and *his* successors devastated Asia and Europe with their savage hordes and built a great but short-lived military despotism. *They* had little use for law within or without their dominions, or for treaties with other nations.

CHAPTER I

SOVEREIGN STATES

EARLY CONCEPTIONS OF SOVEREIGNTY AND INTERNATIONAL RELATIONS

The stages of the growth of conceptions of sovereignty must be traced more by comparison of contemporaries than by historical records of the progress of particular tribes and states, for history is altogether too incomplete to show the chain of events from the days of primitive savages to the organization of their descendants into highly civilized states. The starting point of the investigation is not, as many writers make it, the distinct, well ordered family, but the promiscuous herd, utterly devoid of law and order. Out of this chaos have slowly emerged family and tribal organizations. Leadership in war has usually given influence in council, but such sovereignty as exists in a primitive tribe is in the general assembly of all its members. In exceedingly diverse ways temporary leaders of tribes have acquired continuing power, and with increase in numbers and wealth rudimentary governmental functions have come into being. War, disease and famine have taken their tolls of human life with consequent partial or total destruction of the tribe. Only the more prudent, hardy or fortunate ones have survived to continue their development. With increase of numbers the home instinct asserts itself and families become more clearly defined and segregated. These usually have been in part polygamous and in part monogamous, the stronger or more crafty males enslaving more or less of the females. Polyandry, though much more rare, has become an established system in some tribes. Reliable records containing the early history of the nations known to us are very meager and in the nature of things commence after the invention of letters, which in itself is evidence of very considerable progress in civilization.

The earliest comprehensive discussion of the various forms, purposes and principles of government that has come down to us is that of the Greek philosophers after the Persian invasion and prior to the time of Alexander of Macedon. Socrates, Plato, Aristotle and numerous others discussed these matters with a wealth of research and clearness and force of reasoning that commands the admiration of modern readers. The basis on which their reasoning was built was the Greek world with its many small cities, the Phoenician and other cities of the Mediterranean shores, Egypt, Crete, Palestine, Asia Minor, Mesopotamia, Persia, the barbarians of the surrounding countries and faint gleams of light from distant India. The period was one of brilliant achievement and great intellectual activity.

Aristotle starts his discussion of the founding of a state with his views concerning the proper organization of a family, which he makes consist of a master, his wife, children and slaves. He accepts slavery as a natural and necessary institution and mastery of the husband over his wife and children. The state he contemplates is made up of families living in a city or well defined district of small size. Viewed from our standpoint and surroundings his state appears as merely the next step in advance of tribal organization, yet his definitions of monarchies, tyrannies, oligarchies, aristocracies, and democracies and of the various kinds of each, the principles on which they act, their good and bad tendencies and the laws which should govern them, are most enlightening to the student of the subject now. Unity of purpose and accountability was the central idea of the Greeks in the structure of their states. The welfare of the state as a political entity was deemed of more importance than that of the citizens as individuals. Lacadaemonia affords an extreme illustration of these views, with efficiency in war as the prime object in the organization of the state. To promote unity of sentiment home life was destroyed and common tables provided. Rigid discipline for the young and a hard life for the mature were enforced. In battle the soldier must fight to the death and the survivor of a lost battle was forever disgraced. At Athens democratic principles obtained, and far more scope was allowed for in-

dividuality and the private welfare of the citizens. Under the leadership of Aristides the Athenians succeeded in forming a confederacy for the protection of the Greek cities against the Persians about 477 B.C. The general policy of the confederacy was determined by a synod of representatives of the cities which met at Delos in the temple of Apollo. Yearly contributions were made by the members, first of ships and men and later of money. In time Athens assumed control of these contributions and enforced their payment, thus rendering the other cities its tributaries. In the course of time the synod of representatives ceased to exercise authority and all matters of interest to the confederacy were determined at Athens. Discontent among her democratic allies caused by the arbitrary authority exercised by Athens over them and the jealousy of Sparta and her oligarchical confederates culminated in the Peloponnesian war and the downfall of Athens. Two Greek confederacies had been formed and were the parties to this war, which proved mutually destructive to both and was followed by the Macedonian conquest.

Larger states organized on very different principles were well known to the Greeks. Babylon was visited by Herodotus, and from him we learn something of its laws and the manners and customs of its people. It was far greater than any Greek city, and its king in the height of its power ruled over a vast territory extending from Egypt into Persia. The king ruled under a claim of divine right. He established laws for the government of his subjects but was himself above all laws. The Code of Hammurabi is the oldest code of written laws known to us, but was doubtless preceded by others. Substantially the same theory of sovereign power prevailed in the kingdoms of Assyria, Media, Persia, Egypt and India. The sovereign made laws but did not submit to them. Distant conquests were mainly for the purpose of extorting tribute, which was sometimes paid by the cities and districts through their own officers, and in other cases collected by satraps wielding the despotic powers of the sovereign for their own advantage as well as to get the tribute for the king. The fundamental idea of sovereignty in most of the Asiatic kingdoms

was paternal absolute power vested in a king, while that of the Greek cities was a state composed of its citizens and ruled by such and so many of them as were vested with power at the time. The fact that tyrants usurped arbitrary power at times did not change the prevailing conception of the unity and sovereignty of the city itself.

The Chinese, then unknown to the Greeks, adopted the paternal theory of government, but Confucius conceded the right of the emperor to rule only so long as he himself obeyed the laws. The powers actually wielded by the Chinese rulers were, however, not much less arbitrary than those exercised by the kings of western Asia, but the very great numbers of their people precluded direct personal rulership as to most of them and rendered government by law a necessity. The isolation of China and the multiplication of its homogeneous people rendered its position unique, yet it is interesting to note the similarity of the experiments in government that have been tried there to those of the nations of the west. It is also noteworthy that in the 4th, 5th and 6th centuries B.C. there was profound consideration of the principles of government by Chinese as well as by Greek philosophers. Lao-Tsze and Confucius were contemporaries of Socrates and of Pericles who led in the most brilliant period of Athenian history. Plato, Aristotle and a multitude of other brilliant men followed. China still looks to Confucius as its greatest teacher and lawgiver, and the western world with all its changes and progress still admires the wisdom of the Greek philosophers. The date of the compilation of the great Hindoo Code of Manu, which has so profoundly influenced the social life of India, is uncertain, but it was probably somewhat, and may have been very much earlier.

With Greek soldiers Alexander of Macedon extended his power over Egypt, Asia Minor, Persia and Mesopotamia, and on into India, but his mastery was not perpetuated by his successors in accordance with Greek, but of Asiatic principles of government. His relations with all the nations with which he came in contact were merely that of a warrior who knew no law but that of might. His career affords abundant proof of the truth of many of the sayings of his great teacher, Aris-

tote, but not of his success in inculcating sound moral principles in his pupil. Aristotle said "Nothing is so savage as injustice in arms,"¹ and "He who bids the law to be supreme makes God supreme, but he who intrusts man with supreme power, gives it to a wild beast, for such his appetite sometimes makes him; passion, too, influences those who are in power, even the very best of men; for which reason the law is intellect free from appetite."²

Though neighboring tribes of savages have at times had understandings with each other with reference to the use of hunting grounds, the occupancy of land and other matters of concern to both, the instability of their organizations and the vicissitudes of savage life have rendered the establishment of general rules governing the relations of tribe to tribe impossible. Want of the use of letters precludes all written codes, treaties and conventions. Tribal warfare has generally been waged to drive out or exterminate the enemy, with no restrictions designed to mitigate its barbarities. Peaceful relations have often been maintained for considerable periods in accordance with tribal agreements, but war between tribes has known no restrictions of its methods. In America and Africa in recent times utter extermination of one tribe by another has sometimes occurred.

The earliest known limitations on the savageries of war have resulted from religious teachings among related people of considerable culture. The Amphyctionic League of Greek cities did not prohibit its members from warring with each other, but forbade them to cut off the water supply of a besieged city or to raze it when taken. No such restriction saved Troy from the earlier Greeks, nor Carthage from the later Romans. The ancient cities of Mesopotamia and many of those of Asia Minor were destroyed by merciless conquerors in periods of war, and the civilization which had developed in Babylon, Nineveh and succeeding cities was blotted out. Joshua utterly destroyed Jericho and all its inhabitants except

¹ Politics B. 1, Ch. 2.

² Politics B. 3, Ch. XVI.

Rahab and her household who had concealed his spies.³ In the wars of the Israelites no restrictions were placed on the slaughter of enemies unless for special reasons.

The Aryan invaders of India, at an early date that cannot be definitely fixed, placed important restrictions on the savagery of war. The laws of war in the Code of Manu provide—

90. "Let no man engaged in combat smite his foe with sharp weapons concealed in wood, nor with arrows mischievously barbed, nor with poisoned arrows, nor with darts blazing with fire;

91. "Nor let him in a car or on horseback strike his enemy alighted on the ground; nor an effeminate man; nor one who sues for life with closed palms; nor one whose hair is loose and obstructs his sight; nor one who sits down fatigued; nor one who says 'I am thy captive';

92. "Nor one who sleeps; nor one who has lost his coat of mail; nor one who is naked; nor one who is disarmed; nor one who is a spectator, but not a combatant; nor one who is fighting with another man.

93. "Calling to mind the duty of honorable men, let him never slay one who has broken his weapon; nor one who is afflicted with private sorrow; nor one who has been grievously wounded; nor one who is terrified; nor one who turns his back."

201. "Having conquered a country let him respect the deities adored in it and their virtuous priests; let him also distribute largesses to the people, and cause a full exemption from terror to be loudly proclaimed.

202. "When he has perfectly ascertained the conduct and intentions of all the vanquished, let him fix in that country a prince of the royal race and give him precise instructions.

203. "Let him establish the laws of the conquered nation as declared in their books; and let him gratify the new prince with gems and other precious gifts."⁴

Some of the foregoing rules and restrictions will be recognized as corresponding with the Geneva and Hague Conventions so recently adopted and more recently so grossly violated. The provisions of these conventions are to be found in succeeding parts of this work. No such humane principles appear to have ever obtained in western Asia, and the present state of desolation in districts once highly cultured is due in main to the savagery of war. The religious principles of the

³ Joshua Ch. 5.

⁴ Code of Manu, Translation by Sir William Jones, § 90-91-92-93-201-202-203. Ch. 7. Evolution of Governments and Laws, pp. 1033-1036.

Greeks preserved most of their cities from annihilation but did not save them from the miseries of war. Though from the earliest times of which we have historical accounts there were numerous powerful nations in western Asia and on the shores of the Mediterranean and Black Seas, which were accustomed to the use of letters, to trading with one another, and each of which had established governments and national personality, no attempt seems to have ever been made to develop anything approximating international law among them. Wars were not always waged with a purpose to exterminate the enemy but often to extort tribute or capture slaves. The Romans early adopted a wise and humane policy of binding their conquered foes to Rome by liberal treatment and mutually profitable dealings. This policy quite as much as Roman legions was the cause of the growth and solidity of the Republic. The Empire followed, uniting all the civilized parts of the known world east of Persia under one government. During its existence there was little room for international law, for one nation prescribed law for all the people.

MODERN CONCEPTION OF THE NATION

That the land area of the world, except parts of Africa and small parts of Asia, is divided among nations with fixed territorial boundaries, each under a government responsible for its own acts and also for the conduct of its citizens and subjects, is now the accepted doctrine on which all international law is based. This preserves in all essential particulars the Greek conception of distinct individuality in the state with unity of political purpose and accountability, but without restriction as to extent or contiguity of territory. In the requirement of definiteness of territorial boundaries it perpetuates the theory of dominion established in feudal times, which based all governmental power on land tenure, the king being the ultimate owner of all, and those having local authority his tenants and subtenants. It also accords with the feudal system in allowing a nation to have remote and disconnected possessions. Whatever its form of government or the extent of its territory the corporate accountability of the state through its government is

as full as under either the Greek, the paternal, or the feudal theory of rulership. Within its dominions its authority is exclusive, except as special governmental functions may be granted or delegated by treaty to other nations. National entity is recognized by the community of nations in San Marino, with its twenty-three square miles of territory and 8200 people, as well as in Great Britain with colonies and dependencies on every continent. San Marino answers the description of the Greek city state, while the British Empire includes all races of people, in every stage of civilization, and living under the most diverse climatic and economic conditions. Between these, in varying extent and composition, are other firmly organized nations, which separately or in combination assume rulership of the whole world. Much of Africa and parts of Asia are not yet subjected to orderly government, but the European States have apportioned these parts among themselves, denominating large parts of Africa as spheres of influence, for the government of which they do not assume full responsibility.

Though its nations dominate so much of the lands of other continents and of the remote islands, Europe's internal divisions and boundaries are still in a state of change and transition. Most great modern wars have been waged by European nations against each other, to gratify the ambitions of rulers and commercial and industrial leaders for extended mastery. The great war just ended is no exception. It was instituted without any necessity or justification, to further the ambitions of military rulers and the classes of their subjects which expected to derive especial advantage from aggressive warfare. The result has been the reverse of that anticipated by its authors. This result has been achieved by a world-wide combination of forces. This combination was possible mainly because the sense of humanity was shocked by the ruthless slaughter of people who had done nothing to warrant attacks on them, and by the disregard of the rules adopted at the Hague Conference to mitigate the horrors and barbarities of war. A league including nearly all the great nations of the world was formed to overthrow the Central Powers. The result has been more far-reaching than was anticipated. The Russian despotism,

which was fighting in alliance with the popular governments of western Europe, was the first to fall, and the vast empire which included so large a part of Europe and Asia is now in such a condition of disorganization, turmoil, and suffering, as usually attends the overthrow of a long established despotism. How many separate states will be formed from its fragments cannot yet be foretold, but it now seems probable that it will be divided into states more nearly corresponding in size to the other nations of Europe. The Empire of the Turks, which has been waning for a century, is now about to be broken up, and the Armenians and other subject people who have endured its tyrannies and persecutions will be liberated and placed under the protection of the League of Nations. The dual monarchy of Austria-Hungary, which for centuries has blocked the progress of free institutions in central Europe, is disrupted, and the people it has ruled so long are organizing new governments according with racial lines. Germany, most powerful and efficiently organized for war of all the nations of the world, with a population mainly homogeneous, is now in a state bordering on anarchy. Famine threatens its people, and to the losses occasioned by war are added the burdens of indebtedness and of payment of compensation for the destruction wrought in the territories occupied by them and reached by their guns and air crafts. Out of the wrecks of these empires the ancient Polish state, which had been partitioned among these despotisms in 1795 and prior thereto, is again taking form and asking for its place among the nations. The Czechs and Slovaks are forming a new state and the Jugoslavs are seeking a reconstruction along racial lines. Many conflicting claims and projects are presented which imperatively demand concert of action by the nations that have not been broken up by the war to aid in the restoration of order in the territory formerly ruled by these disrupted governments. The peace conference has to deal with conditions of disorganization where at the beginning of the war were strongly centralized governments. The principles on which the conference is proceeding render it impossible to settle the status of all the disorganized territories. Questions with reference to the au-

tonomy of the different parts of each of the disrupted empires may, and probably will, require a long process of settlement involving the submission to the people of many localities of questions as to their political affiliations and territorial combinations. For a time it may require a large police force to preserve the peace until fair and just settlements of the controversies can be arrived at. The situation is far different from that presented to the Congress of Vienna in 1814 and 1815, when the map of Europe was redrawn in accordance with the views of triumphant monarchs. There were then no troublesome questions as to the rights and preferences of the people of the various districts. The interests of rulers and the balance of power were the only considerations having weight. The principle of despotic government had been sustained through the wars, and the so-called Holy Alliance was formed to perpetuate it. The problem now is one of reorganization in accordance with higher ideals. The rulers of Europe are no longer either the dominant force in the conference or their claims a subject of consideration. The great problem is to organize Europe in the manner best calculated to preserve harmony and good relations between the states and peace and prosperity among the people. The League of Nations appears to be an indispensable agency to complete the work of making a real treaty of peace. The people of the separate districts which have no clearly defined relation to any established government require the protection of a supervising organization until such time as their status can be settled in accordance with their wishes, or at least the wishes of a majority of them. Settlement of all the questions of boundary in the manner of the Congress of Vienna would doubtless result in strife and turmoil for an indefinite period. Adjustments must accord with the wishes of the people concerned in order to promote permanent good relations. There is also need of greatly increased freedom of commercial intercourse between the small states of continental Europe, and of organizations calculated to stimulate friendly relations among the people of all of them.

The number of nations now mutually recognizing the sovereign rights of each other is a few more than of the states which

make up the American Union. Of these nations all on the Western Hemisphere are republics. In Europe the downfall of the Roman Empire was followed by a relapse into more primitive organizations, followed by the feudal system and local despotisms based on military support of the ruler in return for protection in the possession of land. This statement of the general situation does not apply to every part, for there were parts of Europe where the feudal system never obtained. With the exception of these parts all Europe fell under the domination of kings who claimed to rule by right divine and without accountability to any earthly authority. The Roman Church added the weight of its teachings and influence to the pretensions of most of these rulers, and caused the overthrow of many who denied its authority.

Beginning with the French Revolution there has been a drift toward popular government, either in the form of a republic or a constitutional monarchy, with the real power in a representative body executing its will through a responsible ministry accountable to it. This drift has been greatly accelerated by the recent war, which has resulted in the overthrow of the imperial governments of Russia, Germany and Austria, and the abdication of minor kings and potentates. In Asia the great paternal despotism of China has been converted into a republic; Japan, the most exclusive of monarchies, has become a constitutional monarchy, a very great commercial and industrial nation, and the most progressive of all the nations, while the typical oriental despotism of Persia, which persisted through so many centuries, has become a constitutional monarchy. All the vast multitudes of India, with their diverse religions, customs and degrees of culture, are ruled by Great Britain. The great African continent is wanting in any strong native government. Egypt, though one of the pioneers in civilization so far as history advises us, is now under the guardianship of Great Britain. Ethiopia is still in about the same stage of development as in the days of Solomon. Morocco is under the joint guardianship of European powers, though its sovereignty is still recognized in form. Little Liberia, a republic on the western coast of Africa, maintains a

national existence, and is perhaps as nearly an independent power as any state on the continent. The general situation is that a larger share of the habitable globe is included in the territory of firmly organized governments than of the present continental possessions of the United States was included in the thirteen colonies at the time of the Revolution. Thirty-five new states, averaging much larger territorially than the original thirteen, have been admitted into the Union from territory then peopled by the scattered Indian tribes. New independent nations will doubtless soon emerge from the wild regions of Asia and Africa and claim admission into the society of nations. Though there is much diversity in forms and theories of government and law, the drift toward a uniform type is very marked and very rapid.

Every nation has its mouthpiece through which it speaks to other nations and its ear through which it hears from them. The capitals of all the great nations are connected with each other by telegraph so that communications may be passed between them instantaneously. When the American Union was formed it took weeks to send a message and get an answer from Boston to Savannah either by the slow uncertain sailing vessels or by the yet slower land conveyances. Intercommunication between the most remote capitals is now far more expeditious, reliable and satisfactory than between the capitals of the colonies in 1776.

Thus far the world has struggled on developing governments over the people of portions of the earth varying in extent, each claiming ultimate and absolute sovereignty within its own dominions and waging war at will against its neighbors on any pretext and for any purpose that it chose. No superior authority has existed with power to settle disputes, prevent aggression or redress wrongs committed by one nation or its people on another or its people.

Within each nation there is a governmental organization clothed with power to preserve order, restrain aggression, punish wrongdoers, and promote the general welfare. While there is very great diversity in the degrees of efficiency of these governments, in theories of political power, and in the details

of the governmental structure, all undertake to protect their citizens in their persons and property against violence and wrong from others. All forbid private warfare and punish those who wage it. In the exercise of its legislative function the government enacts laws, levies taxes, directs the expenditure of the public moneys and makes provision for the execution of its will. Its judiciary interprets the laws and applies them to cases as they arise. The executive carries the governmental will into effect, employing such organized force as may be necessary to overcome any resistance that may be offered. In despotic countries the executive acts without restraint and may not be called to account for his misdeeds. In free states all executive officers are accountable for their violations of the laws, whether committed with or without claim of authority. In autocratic countries subordinate officers are accountable solely to the autocrat. In democratic countries all officers, high and low, are accountable to the people or to such tribunals as they have established for their violations of the law.

While these differences in theory and practice are of the utmost importance in the regulation of internal affairs, the claim of entire freedom from all outside restraint has been maintained by all nations alike. Within each nation a citizen or denizen must not wage private warfare, but may apply to a court or other appropriate governmental agency for protection of his person or the enforcement of his rights, but nations have had no such alternative for the settlement of their controversies. The determining factor in every controversy between nations has therefore been might, not right. The inherent moral strength of manifest right may, and in the great war which has just ended has, attracted strength to aid weak nations, but superior might was the final arbiter. Its brutal strength may oppress and destroy as well as protect.

The unprecedented struggle which has just ended has made the world painfully conscious of the need of some efficient organization to prevent the horrors, brutalities and injustices of war, to force nations as well as private persons to submit to the rule of law and to win or lose their controversies according

as they are right or wrong, rather than because they are strong or weak. Not all wars, in fact but few wars, result from the denial of a clear moral right. Conflicts between nations arise from a multiplicity of causes, many of which cannot be classed as moral or legal issues. Of these by far the greater part would appear altogether inadequate if not quite insignificant to a disinterested tribunal.

WANT OF BINDING LAW AND SUPERVISING FORCE OVER THE NATIONS

While international law is not a myth but has real existence and is enforced in the domestic tribunals of each of the leading nations in controversies between the parties before them, if nations disagree no tribunal exists to which either may apply for the determination and enforcement of its rights. If nations disagree as to the true meaning and intent of the treaties they have made, no court has authority to settle their differences. The judgments of arbitrators to which they may submit their controversies are wholly dependent on the good faith of the parties to comply with them.

No nation has power to legislate for the high seas except for its own people. The navigable waters covering about three-fourths of the surface of the earth are common property of all nations in the government of which all have rights and interests, yet no power exists that is authorized to make laws governing their common use.

The nations may and do make treaties and conventions but these bind only such as consent and voluntarily submit to them and only so long as they see fit to keep faith.

Among the advantages which may reasonably be expected to accrue from civil government of the world and the enactment and enforcement of binding international law may be mentioned:

The preservation of peace.

Relief during peace from the burdens of preparations for war.

More efficient laws for the seas.

Laws regulating the international use of electrical force.

Laws governing the navigation of the air.

Higher conceptions of justice.

Greatly increased commercial and industrial activity.

Cooperation of nations in vast undertakings for the common good.

Freedom of travel and association.

Increasing respect and good will resulting from better acquaintance.

Humane assistance to unorganized and undeveloped peoples.

Utilization of the waste places of the world.

General advancement in moral standards and conceptions.

All these advantages, so far as they relate to interior conditions, have accrued to the people of the United States as the result of their union under one efficient government for general concerns, leaving local affairs to the states. While it may be too much to expect these results in equal measure from any possible league or union of the nations, it seems at least a well grounded hope that a league, union or confederation of all nations whose governments are based on the theory of accountability of all officials to the people or their representatives, would produce results corresponding in main with those enjoyed by the people of the United States and resulting from their union of states. At the time the American Union was formed the colonies were thirteen separate sovereignties. By the adoption of the Constitution they ceded such attributes of sovereignty as were essential to their common safety to the general government and retained all others. Among the attributes so ceded was that of sovereign power to make war. No combination of the nations can be effectual for the needs of the world unless they, like the American States, cede to the general union of nations their sovereign right to make war and to do those things for the general good which the nations cannot do separately. It is equally important that they reserve to themselves the sole right to regulate their internal concerns. It would appear better to confer too little than too much power on the union or league but it must have enough to prevent war and all preparation for war. Europe is the part of the earth which has been most afflicted by destructive wars in re-

cent times. People from all parts of it in great numbers have migrated to America and become citizens of this country. Most of them have been very readily assimilated in the body politic, and no serious disorders have resulted from the mixture of all nationalities. In the generation born in this country and educated in the public schools all children of parents coming from northern Europe appear as Americans, usually with little or nothing to indicate the nationality of their parents. The Latin races are assimilated more slowly, but without serious difficulty. Africans and Asiatics are also here, the former in great numbers, yet notwithstanding their differences from the European stock, their relations to the whites become quite readily adjusted and all live together in peace. Freedom of movement and of industrial and economic adjustment and a general disposition to treat every one according to his personal capacity and worth and to apply the law impartially to all are the most potent influences which combine in producing the happy situation. The fundamental difficulty in preserving the good relations of the people of Europe to each other arises from their segregation into small nations, speaking different languages, and under governments in the hands of ambitious rulers who seek personal and national aggrandizement at the expense of neighboring people. Political barriers there prevent the freedom of personal and commercial movements that binds the different states of the American Union together so closely. Permanent peace is dependent on general confidence of the nations and of individuals in their ability to obtain substantial justice by peaceable methods. No condition of society has ever existed, and perhaps none ever will exist, under which all people are entirely satisfied of the justice of the laws and of the distribution of the burdens and rewards of public and private enterprises and activities. But if all can come to have confidence in the agencies through which the people collectively may themselves right their wrongs, they may patiently bear what they regard as injustices until there is a chance to correct them. If the supervising force is one created by the people themselves for the purpose of enforcing justice among them, and one which they may change when they

find it necessary to do so, in an orderly and peaceable manner prescribed by law, there is no need of war or mob violence. There is no theoretical difficulty in framing a constitution for all the nations of the world under which all ultimate power will be retained by the people. The practical difficulty, however, of creating agencies adequate to preserve the peace and promote the general welfare, yet with powers so limited and counterbalanced that they cannot become instrumentalities of oppression, is quite obvious. The farther public agencies are removed from the people whom they are designed to serve, the more the need of strict limitation of their powers, and of publicity in all their official acts. The needed publicity would hardly have been possible a hundred years ago. It is entirely practicable now. The telegraph and the printing press, working together, place before the reading public at night all matters of great interest that have occurred during the day. When there is an overwhelming public sentiment on any question it finds immediate expression in all the leading countries through the press and public meetings.

The need of clearly expressed laws, binding on all the nations, becomes more and more apparent as commercial and social intercourse increases. The people of the manufacturing and commercial states of Europe are dependent on the agricultural countries for both their food and raw material for their industries. In the great war which has just ended ability to obtain supplies from America was regarded as the determining factor in the contest. The present economic adjustments cannot continue without general conditions of peace. Warfare renders it necessary for each country to be either self-supporting or allied with an accessible neighbor from whom the deficiencies of home products can be supplied. The United States is perhaps best able to supply all the wants of its people from its own products of all the countries in the world, yet the scale of living demanded by all classes from common laborers to multi-millionaires calls for coffee, tea, spices, drugs, sugar, rubber, silk, tropical fruit and manufactured articles of many kinds and minor articles too numerous to mention. To live as we are accustomed to live and as we

wish to continue to live we must have access to many distant markets. To enable us to buy all these things we must have markets for our surplus products. This market we find in Europe. The manufacturing nations there must have our cotton, grain and meat products as their business is now adjusted. The value of the merchandise passing to and from the several grand divisions of the world in normal times and without inflated valuations is fairly indicated by the trade statistics of the United States for the year 1911 which are summarized as follows:

	Imports from	Exports to
Europe	\$768,167,760.	\$1,308,275,778.
South America	182,623,750.	108,894,894.
Asia	213,449,730.	85,422,428.
Oceania	30,274,452.	66,060,813.
Africa	27,213,620.	23,607,107.
North America	305,496,793.	457,059,155.

From this showing it appears that in ordinary times a little more^o than fifty per cent. of all the imports of the United States come from Europe, on which we are not necessarily dependent for any product of the earth. We are, however, strictly dependent on Europe for a market for our surplus products, of which it bought nearly sixty-four per cent. Trade with South America, which bears much the same relation to Europe that we do, is of relatively small importance. We get much of our coffee from Brazil, and rubber, cinchona and many other products from other parts of the continent. Exports to South America are mostly of manufactured articles. It would be exceedingly unpleasant to be deprived of our trade with the people of that continent, but the main lines of both travel and commerce are east and west instead of north and south. Trade with our immediate neighbors in North America exceeds in volume that with any other continent except Europe.

Considering ties of blood between our citizens and those of Europe and commercial relations it is apparent that we are more deeply and directly interested in the maintenance of peace there than anywhere else in the world. All the states on the American continents have the same theory of government.

^o Statistical Abstract, 1911, pp. 722, 723.

They have each had hard struggles to establish their institutions on a firm and durable basis, but now have little occasion for turmoil within or conflict without their dominions. The mother countries, however, are not so happily situated, and it seems necessary for the now mature children on this side of the water to take a friendly interest in the affairs of their cousins there. The relationship of the people of Europe and America is not a mere theoretical or ideal relation, but an actual, easily traceable blood connection. The general situation at the close of the war is that the people of all eastern Europe and Germany and what was Austria-Hungary are now in the turmoil which has always followed the overthrow of despotic military governments, while those of the western part, which had democratic institutions before the war, are able to maintain internal order. No great military nation now remains to oppose its will to the organization of the entire world on a basis of popular government at home and justice and equality of right among all the states great and small. Disarmament can go forward in all countries as fast as the great League of Nations is able to inspire a sense of security and confidence in the just purposes of those who are entrusted with the solution of international problems.

The formulation of rules of international law designed for universal observance is not a matter of great difficulty. There is no danger that a body representing all the nations would by even a bare majority vote enact any general law that would be fundamentally unjust. It might do so if a large number of the great nations were still ruled by military leaders, but representatives of the people cannot truly represent the wishes of their constituents unless they seek the just and true rule. But if the world can have a permanent organization with a general legislative body, made up of representatives holding for short terms, and having power to correct its own errors, bad laws would soon disappear and their evil consequences be little felt. Unwise legislation may always be expected in popular governments, but evil influences when detected and exposed soon pass away and their works with them.

The approaches toward international legislation which have

been made by the conferences at which the great conventions hereinafter considered were formulated exhibit a most encouraging tendency for representatives of many nations to apply both sound moral principles and practical wisdom in their work. The quality of this work is not open to criticism. It fails however of universality of application and lacks instrumentalities for its enforcement, even as between the parties to it. The Universal Postal Union is now a complete world-wide organization of all the nations for the transmission of the mails. Its methods of legislation are adapted to its peculiar needs. It connects the postal administration of each country with that of every other country, and international business is carried on through the cooperation of the postal organizations of all the countries. The conventions for the regulation of navigation on the high seas and to prevent the spread of infectious diseases cover fields requiring regulation by positive laws of universal application. For efficiency they require the aids of judicial and executive force. They apply to people, ships, and merchandise of all nations, and the authority of the courts and officers charged with the enforcement of them needs to extend over all alike.

COMPOSITION OF THE NATION

As the government of a nation speaks for its people as individuals, as well as for all of them collectively, in all dealings with other states, the relations of the state to the people within its boundaries are of great importance in considering the subject of international relations. Within each of the great modern nations there are cities far greater and more populous than any of the Greek city states ever were, yet these are mere creatures of the sovereign power of the nation of which they are a part, possessing such corporate powers as the state has conferred upon them. In the United States they do not even derive their powers from the general government, but from the state in which they are located. While the states are sovereign in all matters over which no power is conferred on the general government by the Constitution, the power to deal with foreign nations is expressly conferred on the President

and Congress. Similarly the British Government speaks for all its colonies and dependencies, though it now generally allows them to take part in making treaties in which their especial interests are involved. The doctrine of personality and single responsibility is applied alike to the little republic of San Marino, so small that it can hardly be located on the map, the vast widely scattered dominions of the British Empire, and all the other nations whatever their size or the complexity or simplicity of their institutions.

With the increase of travel, commerce and intercourse among the people of different nations many questions arise as to the status of persons while away from their native homes. International law concedes to each nation the right to classify its people as it sees fit, and to determine the relation of each class to the government, but when one who at birth owes allegiance to one country removes to another, questions arise as to the authority of his native country over him, its duties and obligations to protect him in his person and property and as to his rights, duties and obligations in the country to which he goes.

The general rule is that place of birth determines nationality, and that all persons born within the territorial boundaries of the nation and within the allegiance of its government are citizens or subjects of it, bound to support and maintain it, subject to its laws, and entitled to its protection both at home and abroad.⁷ "All persons born or naturalized in the United States and subject to the jurisdiction thereof are citizens of the United States and of the State wherein they reside."⁸ "Natural subjects are born within the dominions of the crown of England, that is within the leageance or, as it is generally called the allegiance, of the king; and aliens such as are born out of it."⁹ This is the general doctrine in all countries.¹⁰ Every na-

⁷ 1 Blackstone 370.

⁸ 14th Amendment to Constitution of the United States.

⁹ 1 Blackstone 366.

¹⁰ Civil Code of France, Art. 8. Const. Switzerland Arts. 43-44-45. Const. Japan Ch. 2. *Tiaco v. Forbes*, 228 U. S. 549, *U. S. v. Wong Kim Ark* 169 U. S. 228, *Musgrove v. Chun Teeong Toy* (1891) A. C. 272.

tion, unless otherwise bound by treaty, has the right to forbid the entrance of foreigners within its boundaries, or to prescribe the terms on which they may be admitted, and to deport and expel foreigners who have not been naturalized.¹¹ Though this power exists and has at times been used by all the nations, it is not generally exercised in commercial nations in times of peace, and the sparsely peopled countries of the Western Hemisphere have invited the immigration of Europeans.

The converse of this power, that of preventing its citizens from going abroad, also exists, and a nation may compel its citizens or subjects to remain within its territorial limits, but the exercise of this power is not in accord with the principles of free people. By the common law of England a subject could not throw off his allegiance to the crown without the consent of the sovereign,¹² and the monarchies of central Europe have strenuously asserted this doctrine until recent times. The United States does not deny its citizens the right of expatriation, but from an early day has steadily asserted the right of a man to choose his country and his allegiance. Section 1999 of the Revised Statutes of the United States provides:—

“Whereas the right of expatriation is a natural and inherent right of all people, indispensable to the enjoyment of the rights of life, liberty, and the pursuit of happiness; and whereas in the recognition of this principle this Government has freely received emigrants from all nations, and invested them with the rights of citizenship; and whereas it is claimed that such American citizens, with their descendants, are subjects of foreign states, owing allegiance to the governments thereof; and whereas it is necessary to the maintenance of the public peace that this claim of foreign allegiance should be promptly and finally disavowed: Therefore any declaration, instruction, opinion, order, or decision of any officer of the United States which denies, restricts, impairs, or questions the right of expatriation, is declared inconsistent with the fundamental principles of the Republic.”

Aliens may become citizens of the country in which they are domiciled by compliance with its laws relating to naturalization in the countries which have such laws in force. Many treaties have been entered into, especially between the United

¹¹ *Fitch v. Weber* 6 Hare 51. *Macdonald's Case* 18 How. St. Tr. 858.

¹² *McKenzie v. Hare* 239 U. S. 299. *Alsberry v. Hawkins* 33 Am. D. 546.

States and other countries, giving to the citizens of each country the right of naturalization in the other. The United States statute on the subject provides that the alien must declare on oath, before the clerk of a court authorized to naturalize aliens, that it is his bona fide intention to become a citizen of the United States and to renounce forever all allegiance to any foreign sovereignty, two years at least before his admission. Not less than two nor more than seven years after making such declaration he may file a petition to be admitted to citizenship. He must then prove to the satisfaction of the court that he has resided continuously in the United States five years and in the state where the court is held at least a year, that he has behaved as a man of good moral character, attached to the principles of the Constitution, and on admission must swear to support the Constitution and renounce and abjure all allegiance to any foreign prince, potentate, state or sovereignty of which he was before a citizen or subject, and to support and defend the Constitution and laws of the United States against all enemies.¹³ Naturalization of parents also makes citizens of their children who were minors dwelling in the United States at the time of such naturalization. The children of citizens of the United States, born out of the United States are also citizens.¹⁴

Citizenship is not lost by mere absence from the United States, no matter how long continued, but may be transferred by naturalization in another country.

Citizenship of the husband carries with it citizenship of the wife in the United States, France and Great Britain.¹⁵

Naturalization is provided for under general laws in Great Britain, France, and many other nations.¹⁶

Denizens are residents of foreign birth accorded privileges

¹³ Comp. Stats. of U. S. 1918, Title XXX.

¹⁴ Comp. Stats. of U. S. 1918, § 4367.

¹⁵ *Ruckgaber v. Moore* 104 Fed. 947. *Kelly v. Owen*, 7 Wall. 496 Civil Code of France, Art. 12.

¹⁶ Stat. 7 & 8 Vict. c 66 & 33 & 34 Vict. c 14. Civil Code of France, Art. 8. Mexico requires a residence of two years only. *Wheless Laws of Mexico*, Arts. 825-826.

as such but not admitted to full citizenship. In England formerly the king might grant an alien the rights of a denizen by letters patent¹⁷ and the states of the American Union conferred such rights before the passage of the Federal Statute on the subject,¹⁸ but the whole subject is now covered in both countries by the statutes regulating naturalization.

Within the territories of the leading nations are to be found persons not falling within any of the foregoing classes. In the United States there was formerly a large slave population, which by the amendments to the Constitution have become free citizens. The native Indians were not citizens unless specially admitted as such. For many purposes the tribes, though living within the boundaries of a state or territory, are on the footing of independent nations, and the Government of the United States has made many treaties with them with reference to their lands, places of abode, and personal privileges. The Indians until granted citizenship are also treated as wards of the Government and under its especial care and supervision, so that no dealings with them by the whites are allowed except with the consent and in accordance with the regulations of the Government. The Commissioner of Indian Affairs in the Department of the Interior has the general supervision of their interests,¹⁹ and the legislation with reference to them has been very voluminous.

All the contiguous territory of the United States is now divided into States admitted into the Union on equal footing, and the citizens of each state are entitled to all the privileges and immunities of the others.²⁰ The people of Hawaii and Alaska are also citizens of the United States, but not admitted into the Union as states.²¹

Porto Rico and the Philippine Islands stand on a different

¹⁷ 1 Bl. Com. 373.

¹⁸ Act 1799, 5 Stat. of S. Car. 355. *McClenaghan v. McClenaghan* 47 Am. D. 532.

¹⁹ U. S. Comp. Stats. 1918 § 713 and Title XXVIII.

²⁰ Const. of U. S. Sec. 2, Art. IV.

²¹ U. S. Comp. Stats. § 3530-3647.

basis, the people being citizens of those possessions respectively, but not full United States citizens.²²

The British Empire exhibits very great diversity in the relations of its subjects to the Empire. There are

1. The self-governing colonies, subject to a seldom used veto on their legislation by the British Government, each determining questions of citizenship for itself. Canada, Newfoundland, Australia, New Zealand and South Africa, have representative governments, accountable to the people.

2. Those having representative governments but subject to the veto of the home government on their legislation and to the appointment of officials by the crown, including the Isle of Man, Channel Islands, Malta, Cyprus, Ceylon, Mauritius, Bermudas, West Indian Islands, and British Guiana.

3. Crown colonies ruled by the home government. Gibraltar, India, Aden, Perim, Straits Settlements, Hong Kong, African possessions other than South Africa, British Honduras, New Guinea, Fiji Islands, Falkland Islands, and Egypt, with very diverse relations to the native rulers and people.

Besides these there are various districts over which Great Britain assumes a protectorate, without having instituted any settled government, including Borneo and much of Africa.

Notwithstanding the very wide separation of the parts of the Empire, the extreme diversity in race of the people, the wide differences in local conditions, needs, and influences, the British Government speaks for the people of every part of the Empire in all dealings with other nations. The attribute of ultimate sovereignty rests alone in the King and Parliament, in which the people of the British Isles alone have representation. The great war has shown the wonderful strength and coherence of these scattered dominions and of the bonds so loosely tied.

France also has its home citizenship and its African, Asiatic, and American dependencies, the people of which are in all stages of social development, and while accorded the protection of subjects have not French citizenship.

The Netherlands exercises sovereignty over vast possessions

²² U. S. Comp. Stats. § 3754, § 3809.

in the East Indies, including Java with an area and population many times greater than that of the Netherlands, the Moluccas, and large parts of Sumatra, Borneo and Celebes, besides smaller islands. It also has Dutch Guiana and Curacoa and small island possessions in the West Indies. In international dealings it speaks for the people of all these possessions.

Other European states are accorded sovereign rights over distant possessions by the consensus of the nations.

In Asia, China, Japan, and Persia have extensive dominions, mainly of contiguous territory and inhabited by homogeneous people. The South American nations all have compact possessions with a very large element in their population descended from aboriginal stock.

The exercise of sovereign powers over such widely scattered possessions shows how very far the modern sovereign state differs from that defined by Aristotle. The nation is not confined to contiguous territory, nor is it restricted in its citizenship to one race of people. All races are included in the citizenship of the United States, Africans constituting about one tenth of the whole. The people of European stock are the dominant element in substantially all the American republics, British and northern European in the United States and Canada, and Spanish and Portuguese in Mexico, Central and South America. It is the European nations that have assumed guardianship over so many of the islands and so much of the great continents of Asia and Africa.

While it is a fundamental principle of international law that the sovereignty of each nation within its territorial limits is absolute and exclusive, the law affords no guarantee of the continuance of this sovereignty, and each nation must maintain it as best it can against all forces within and without. Conflicting claims of dominion have been most prolific causes of war throughout all the history of the race. Any nation, on any pretext, or for any purpose, might wage war to acquire dominion over the territory of another in whole or in part. No matter how slight the justification for it might be, nor whether any justification was attempted, the status and rights of belligerents were at once accorded equally to the opposing

nations. The leading purpose of the League of Nations is to require the settlement of all international controversies by pacific methods, to protect the weak against the strong, and require that right rather than might shall prevail in the determination of international questions relating to the exercise of sovereign powers.

ALIENS AND ABSENTEES

Migrations of people from one country to another with a view to permanent residence, foreign travel on business or for pleasure, and temporary sojourns of all kinds in a foreign country give rise to many questions of both international and domestic law. An alien is one who does not, either by nativity or voluntary adoption, owe allegiance to the government within whose territory he is.²³ Though in a foreign country, he is still a citizen or subject of his native government. The movements of people from Europe to America during the last century have resulted in building a composite nation in which are represented not only all European races, but also the African and Asiatic. In the year 1910 there were 13,515,886 foreign born people in the United States.²⁴ Of these the greatest number 2,501,333, came from Germany; Russia and Finland, 1,732,462, and 1,352,257 from Ireland. While a very large majority of all of them came from Europe there were 4,664 from India, 67,744 from Japan and 56,756 from China.²⁵ Most of these people came to America with the intention of becoming citizens, and very many of them have been naturalized in accordance with the laws of the United States and are now accorded all the rights of citizens. Others have declared their intentions to become citizens and are accorded in some of the states the right to vote, while the rest are still properly classed as aliens. No other country contains such an intermixture of people, but the Central and South American States are also open to foreign settlement and have a large foreign element in their population. Native Americans are now to be found

²³ 2 Cyc 83. Abbott Law Dic.

²⁴ Statistical Abstract 1917, p. 56.

²⁵ Statistical Abstract 1917, p. 59 to 64.

in most, if not quite, every country on earth. All these migratory people are deeply interested in the questions as to the duties they owe to the country of their birth and to that of their domicile, and also in the question as to the protection they have a right to demand from the governments of both countries. As we have seen, no country is bound to admit to its citizenship, or even to temporary domicile within its territories when under no treaty obligation to do so, the people of foreign countries. But when it does admit them they become subject to its laws and entitled to the protection of them. As to the security of their persons aliens are entitled to the full protection of the municipal law of the country in which they are domiciled, and may resort to its courts for redress when their rights are violated. An alien friend may sue and be sued in the proper courts of the country to the same extent as a citizen.²⁶ This rule may be safely stated very broadly as to aliens whether domiciled or non-resident, in the courts of the United States, and Great Britain, and, though it is still within the power of a nation to deny aliens the use of its courts, the substantially universal custom is to give the same consideration to their demands as is given to those of citizens. Where the courts of the country refuse redress for injuries, or to enforce rights, the alien is entitled to the protection of his home government, provided he has done nothing causing him to forfeit the right to such protection. The right to acquire and hold personal property of all kinds is now very generally recognized in all countries.²⁷ This liberality has not always obtained in the countries of Europe. Feudal lords were slow to give up the practice of plundering foreign merchants under a claim termed *droit d'aubaine*, by extraordinary taxation of foreigners and the confiscation of the personal estate left by a de-

²⁶ Eng. *Ramkessenseat v. Baker*, 1 Atk. 51. *Pisani v. Lawson*, 6 Bing. N. C. 90. *Hepburn v. Dunlop*, 1 Wheat. (U. S.) 179. *Taylor v. Carpenter*, 23 Fed. Cas. No. 13784. 3 Storey 458. France, "An Alien shall enjoy in France the same civil rights as those granted to French people by the treaties of the nations to which such aliens belong." Civil Code § 11.

²⁷ *Hughes v. Edwards*, 9 Wheat. (U. S.) 489. Eng. *Calvin's case*, 7 Coke 2. *Fourdrin v. Gowdey*, 3 Myl. & K. 383.

ceased foreigner within their dominions.²⁸ To put an end to this practice special treaties were negotiated by the United States with Bavaria in 1846,²⁹ Hesse, 1845,³⁰ Nassau, 1847,³¹ Saxony, 1846,³² and Wurttemberg, 1844.³³ The commercial nations of Europe were necessarily far more liberal in their treatment of foreigners.

Aliens also have substantially the same right to sell and transfer personal property during life and to transmit it by will or inheritance that citizens have.³⁴ Bequests to non-resident aliens of chattels are valid.³⁵

A different rule prevails as to real property. At common law both in England and the United States an alien cannot take title to land by inheritance,³⁶ nor can title to land pass by inheritance through the medium of an ancestor who was an alien.³⁷ If a citizen dies and his next heir is an alien who cannot take, the inheritance goes to the next heir who is competent to take as if no such alien had ever existed.³⁸ At common law an alien may acquire land by voluntary conveyance from the owner, but he cannot hold it as against the state.³⁹ No one but the state can question the alien's title.⁴⁰ The whole theory of ownership of a part of the face of the earth is essentially different from that of ownership of movables. The nation asserts and maintains sovereignty over its territorial possessions until overthrown or driven out of them, or until it transfers its sovereignty to another, but no matter how nations come and go or people multiply or die out, the land re-

²⁸ Grotius Lib. II, cap. vi, § 14. Vattel II. 8, §112. Taylor § 200.

²⁹ Senate Documents, 2d Session 61st Congress, 47-56.

³⁰ Senate Documents, 2d Session 61st Congress, 47, 947.

³¹ Senate Documents, 2d Session 61st Congress, 48, 1231.

³² Senate Documents, 2d Session 61st Congress, 48, 1610.

³³ Senate Documents, 2d Session 61st Congress, 48, 1893.

³⁴ 2 Corpus Juris, 1069.

³⁵ Craig v. Leslie, 3 Wheat. 563.

³⁶ Blythe v. Hinckley 180 U. S. 333. Eng. Doe v. Acklam 2 B. & C. 779.

³⁷ Levy v. McCortee, 6 Peters, 102.

³⁸ Corpus Juris, 2 p. 1059.

³⁹ Orr v. Ogden, 4 Wheat. 543. Wallace v. Adamson, 10 U. C. C. P. 338.

⁴⁰ Manuel v. Wulff, 152 U. S. 505.

mains for whomsoever is able to maintain mastery over it. Private ownership is a more immediate and definite dominion, but like that of the state, it may be transferred or lost, yet the land remains, whatever the fate of the owner. Title to land, therefore, whether in the sense of the political dominion of the state or private ownership by the individual, is strictly a creature of positive human law. As against the outside world the nation asserts and maintains its political control. Within its boundaries it determines as it pleases who may acquire private dominion of its land, the nature and duration of such dominion, and all the other questions relating to land tenure. Chattel property is essentially different. Its value may be a human creation and readily destroyed. It is ordinarily movable, so that the owner may take it with him or keep it where he pleases on such part of the earth as he is allowed to use. Its value may be temporary and quickly lost by decay, or durable indefinitely so long as possession is retained, as in the precious metals and durable works of art. There is quite general uniformity in the views of the people of all nations as to the rights of possessors of personal property, but much diversity of laws and customs as to its disposition after the death of the owner. Upon this subject the most general rule that can be safely asserted is that the law of the sovereignty in which the chattels are at the time of the death of the owner will determine the disposition to be made of them.⁴¹ The law of the domicil of the owner is usually allowed to determine who are the distributees and their respective shares.⁴² In the exercise of their powers of taxation the state of the decedent's domicil and that where the goods are at the time of his death may impose taxes on the property, unless under treaty obligation not to do so. In the United States the laws with reference to the descent of real property and the distribution of the personal estate are exclusively the work of the different states and there is great diversity in the rules adopted by them. There is entire uniformity, however, in their acceptance of the principles that the law of the situs

⁴¹ *Hamilton v. Dallas*, 38 L. T. Rep. N. S. 215.

⁴² 14 Cyc. 189.

governs the descent of land and the law of the owner's domicile the distribution of the personal estate.

The exclusive power to make treaties with foreign nations is vested in the President of the United States by and with the advice and consent of the Senate. Treaties so made become the supreme law of the land and cannot be defeated or limited in their operation by any act of the legislature of a state. If there is a conflict between the provisions of the treaty and a state statute the treaty prevails.⁴³

Aliens are subject to the municipal law of the country into which they go, and are subject to prosecution and punishment by the courts of the country for crimes committed within their jurisdiction.⁴⁴ An alien's right to remain in the territory of a foreign government is wholly dependent on the will of that government, and may be terminated at any time by it.⁴⁵

While warring nations formerly claimed the right and exercised the power to confiscate the property of aliens within their possession, modern international law does not recognize this as a right. Alien property may be seized and held and dealings between citizens and aliens may be suspended during the war.⁴⁶ The right of an alien to sue in the courts of the enemy country is suspended during war.⁴⁷ The property seized may be used by the government and the right to compensation adjusted either with the private owner or with the government of his country when peace is reestablished. The belligerent has the power to confiscate the property of the enemy and of its citizens in its possession, but the Hague conventions deny the right to confiscate private property and undoubtedly express modern sentiment on the subject.

The subject of the status of aliens in the United States was

⁴³ *De Geofroy v. Riggs*, 133 U. S. 258. *Hauenstein v. Lynham*, 100 U. S. 483. *Japanese Immigration Cases* 189, U. S. 86. *In re Parrott* 6 Saw. 349.

⁴⁴ *Barrington v. Missouri*, 205 U. S. 483. *In re Burbidge* (Eng.), 1 Ch. 426.

⁴⁵ *In re Wang Tuck* 11 Hawaii 600. *Fok Young Yo v. U. S.* 185 U. S. 296. *Schwartz v. Adams*, 228 U. S. 592.

⁴⁶ 40 Cyc. 320. *Trading with the Enemy act* Oct. 6, 1917.

⁴⁷ *Dorr v. Gibboney*, 7 Fed. Cases 4006,

very fully considered and discussed by the Supreme Court in the case of the *United States v. Wong Kim Ark*. He was born at San Francisco of Chinese parents who were subjects of the Emperor of China, but domiciled residents of San Francisco. He made a temporary visit to China and on his return applied to the collector of customs for permission to land, which was refused on the ground that he was not a citizen of the United States. The opinion contains an extended review of the authorities bearing on the question presented in the case. Quoted from the opinion in the English case of *Udny v. Udny*⁴⁹ is the following: "The law of England, and of almost all civilized countries, ascribes to each individual at his birth two distinct legal states or conditions; one, by virtue of which he becomes the subject of some particular country, binding him by the tie of natural allegiance, and which may be called his political status; another, by virtue of which he has ascribed to him the character of a citizen of some particular country, and as such is possessed of certain municipal rights, and subject to certain obligations, which latter character is the civil status or condition of the individual, and may be quite different from his political status," and from the language of Lord Chief Justice Cockburn: "By the common law of England, every person born within the dominions of the Crown, no matter whether of English or of foreign parents, and, in the latter case, whether the parents were settled or merely temporarily sojourning, in the country, was an English subject; save only the children of foreign ambassadors (who were excepted because their fathers carried their own nationality with them) or a child born to a foreigner during the hostile occupation of any part of the territories of England. No effect appears to have been given to descent as a source of nationality."⁵⁰ It is further said in the opinion: "But at the time of the adoption of the Constitution of the United States in 1789, and long before, it would seem to have been the rule in Europe generally, as it certainly was in France, that, as said by Pothier, 'citizens, true and native-born citizens, are

⁴⁹ *Udny v. Udny* (1869) L. R. 1 H. L. Sec. 441.

⁵⁰ Cockburn on Nationality 7.

those who are born within the extent of the dominion of France,' and 'mere birth within the realm gives the rights of a native-born citizen, independently of the origin of the father or mother, and of their domicil'; and 'children born in a foreign country, of a French father who had not established his domicil there nor given up the intention of returning,' were also deemed Frenchmen, as Laurent says, by 'a favor, a sort of fiction' and Calvo, 'by a sort of fiction of extritoriality, considered as born in France, and therefore invested with French nationality.'⁵¹ . . .

"The foregoing considerations and authorities irresistibly lead us to these conclusions: The Fourteenth Amendment affirms the ancient and fundamental rule of citizenship by birth within the territory, in the allegiance and under the protection of the country, including all children here born of resident aliens, with the exceptions or qualifications (as old as the rule itself) of children of foreign sovereigns or their ministers, or born on foreign public ships, or of enemies within and during a hostile occupation of part of our territory, and with the single additional exception of children of members of the Indian tribes owing direct allegiance to their several tribes. The Amendment, in clear words and in manifest intent, includes the children born within the territory of the United States, of all other persons, of whatever race or color, domiciled within the United States. His allegiance to the United States is direct and immediate, and, although but local and temporary, continuing only so long as he remains within our territory, is yet, in the words of Lord Coke, in *Calvin's Case*, 7 Rep. 6a, 'strong enough to make a natural subject, for if he hath issue here, that issue is a natural born subject,' and his child, as said by Mr. Binney in his essay before quoted, 'if born in the country, is as much a citizen as the natural-born child of a citizen, and by operation of the same principle.' . . .

"Chinese persons, born out of the United States, remaining subjects of the Emperor of China, and not having become citizens of the United States, are entitled to the protection of and owe allegiance to the United States, so long as they are

⁵¹ Pothier *Traite des Personnes*, pt. 1, tit. 2, sect. 1, nos. 43, 45.

permitted by the United States to reside here; and are 'subject to the jurisdiction thereof,' in the same sense as all other aliens residing in the United States. . . .

"Upon the facts agreed in this case, the American citizenship which Wong Kim Ark acquired by birth within the United States has not been lost or taken away by anything happening since his birth."⁵²

From this opinion and the authorities cited in it it appears that the alien owes a double allegiance, to the country of his birth and that of his domicile, and that he is entitled to the protection of both until he renounces one or the other. His allegiance to his native country is of a political character. He is not personally subject to its jurisdiction and will not be delivered up by the country of his domicile on the demand of that of his birth except for an extraditable offense committed in that country. Political offenses do not afford grounds for extradition.⁵³ If his sovereign calls the alien home for military duty, he is legally bound to go, but will not be forced to do so by the country of his adoption. He may renounce his allegiance if he sees fit to do so, but whatever property he has in the country of his birth is subject to its laws, and if he returns to it he subjects himself to its jurisdiction for any disobedience of its laws while in foreign countries.

Nowhere else are the principles above declared of so much importance as in the United States, the citizenship of which is so largely made up of alien born people and their descendants born in this country. Though in the early years of the republic there was some controversy with European powers over questions of expatriation and naturalization, it now has satisfactory treaties with most of the nations removing the grounds of controversy. The exclusion of Asiatic laborers has caused complaints from China and Japan, but amicable adjustments of the limitations of their rights to migrate to this country have thus far been accomplished by treaties. Race prejudices and antipathies are hard to overcome. There is

⁵² United States v. Wong Kim Ark, 169 U. S. 649.

⁵³ Stat. 33 and 34 Vict. c. 52, § 3. In re Munier 2 Q. B. 415. In re Ezeta, 62 Fed. 972.

little of these left in the United States as to the Europeans, of the blood of all nations of whom we now have so many citizens, but with the Asiatics there is as yet very little intermixture. With rapidly increasing acquaintance friendly feeling grows, but it is hardly to be expected that Orientals will be soon regarded with the same feeling as the Europeans with whom we are allied by blood.

CHAPTER II

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INTERNATIONAL LAW

DAWN OF INTERNATIONAL LAW

Out of the feudal system of the middle ages, as a natural outgrowth, came kingdoms, personified in their sovereigns, to whom all subjects owed fealty as the source of title to all the land in the state. The saying of Louis XIV "I am the state" fairly expressed the prevailing theory of national responsibility. In all dealings with other powers, whether in peace or in war, the king spoke for his country. The discovery of America and of the ocean route to the far east excited rivalry among the maritime countries for distant trade and possessions. Governments became more firmly established, population increased, and ships multiplied on the seas. Nations had more frequent intercourse with each other, and rules governing such intercourse came to be regarded as necessary. The rudiments of a common law of nations were generally accepted by the leading states, though not uniformly observed. The only sanction of the law was such as was imposed by the ruler on his own subjects. The Popes sometimes used their influence and spiritual weapons to mitigate the barbarities of war, but were too often more concerned with the interests of the church than in restraining the savagery of war.

The first comprehensive work on international law was that of Hugo de Groot, better known by the Latinized name of Grotius, entitled *De Jure Belli et Pacis*, published in 1625. It is a most scholarly work and shows great familiarity with Greek and Roman history and the reasoning of their statesmen and philosophers. While the great purpose actuating his effort was the advancement of moral standards, he dealt with an existing, not an ideal, world, and based his statements concerning the laws on the rules actually observed. Like the Roman scholars he sought for the *Lex naturae* as a moral

basis for human law. He says—"That there is such a thing as natural law is commonly proved both *a priori* and *a posteriori*; the former the more subtle, the latter the more popular proof. It is proved *a priori* by shewing the agreement or disagreement of anything with the rational and social nature of man. It is proved *a posteriori* by certain or very probable accounts we find of anything accepted as natural law among all nations, or at least the more civilized. For a universal effect requires a universal cause; now such a universal belief can hardly have any cause except the common sense of mankind."¹

In the slow and spasmodic evolution of law it is not surprising that international law should be a later development than the civil law of states. It is so of necessity, for the idea of the collective personality of the nation must be well developed and recognized before moral and legal accountability as such can be attributed to it.

The extreme doctrine of individual liberty has been applied to nations and those who have exercised sovereign authority in them, in quite as full measure as individual liberty is asserted in the savage tribes which acknowledge no law or authority. The doctrine that the king can do no wrong, though not maintained as sound ethics, has prevailed because there was no adequate force within or without the state to judge, restrain or punish him. Not only philosophers but all normal people recognize the applicability of the moral law to the relation of states to each other with the same force as it applies to the relations of natural persons. The difficulty has been, and still is, to agree on methods of ascertaining the general consensus of opinion as to the principles of the natural law, the moral law, and to establish instruments to apply and enforce them. There is the same need of restraints over the conduct of nations as over that of natural persons. They are actuated by similar passions and motives of interest and advantage. Perhaps the ultimate goal to be reached is a condition in which national personality will disappear, and all men be guided by accepted principles of human relations, but

¹ De Jure, Book 1, Ch. 1, XII.

this age must deal with its own problems and conditions in practical ways, leaving those which a higher and better civilization will present to be dealt with by posterity.

Grotius discusses domestic relations, inheritance, wills, the acquisition, possession and transfer of property, real and personal, and many other topics of the law as generally administered, and by particular nations, and bases many of his statements of international law on the rules generally observed in private as well as public matters. He recognized the right of rulers to exercise and transfer political power as property, without regard to the wishes of their subjects. In this he merely followed the accepted doctrines and practices of the European rulers of his time. He asserts the right to levy war for a just cause, and undertakes to discriminate between the just and unjust grounds. The work is so full of quotations, discussions, and illustrations from ancient and modern instances that no brief summary can indicate the wealth of valuable matter it presented to his contemporaries. The reception given to it by the public was most flattering, and its influence in promoting international law has been very great.

Grotius was not the first modern writer on the subject of international law. He was preceded in Italy by Machiavelli, some of whose principles are generally regarded as abominable, and Albericus Gentilis, who defended him. In Spain Francisco Suarez, Francisco de Victoria and Balthazar Ayala published works dealing with the subject. None of their writings gained anything like the prominence of that of Grotius. In 1672 Pufendorf's *De Jure Naturae et Gentium* was published and was followed in 1702 by Bynkershoek's *De Dominio Maris*, and other writings later.

Vattel's *Droit des Gens* published in 1758 added much to the structure of international law, and was accepted as a leading authority on the subject. It, like that of Grotius, discusses many of the recognized principles of civil law and applies them to the relations of nations. Vattel, however, maintains that there is a difference in the law applicable to private persons and to states. He says—"When therefore, we apply to nations the duties which the law of nature prescribes to indi-

vidual man, and the rights it confers on him in order to enable him to fulfil his duties, since those rights and those duties can be no other than what are consistent with the nature of their subjects, they must, in their application, necessarily undergo a change suitable to the new subjects to which they are applied. Thus, we see that the law of nations does not, in every particular, remain the same as the law of nature, regulating the actions of individuals."²

Since the time of Grotius many writers have published works on international law,³ and its principles are recognized and enforced between private litigants by the courts of all the leading nations, though no tribunal has yet been created with power either to secure uniformity in the rules applied or to enforce the observance of any of its principles by the sovereign nations. Many of its principles are generally agreed on by these authors, and have been accepted as a part of the civil law of continental Europe and of the common law of Great Britain and America. Yet with all the teachings of so many able men, the fundamental doctrines of international law still leave a wide field for conflicting claims of right, with neither clear rules to determine them, nor any authority empowered to make or enforce such rules. The only supreme power

² Vattel's *Law of Nations*. Preface XI.

³ In Great Britain,—Hobbes, Austin, Bentham, Manning, Polson, Wildman, Hosack, Phillimore, Twiss, Amos, Creasy, Hall, Maine, Lorimer, Levi, Lawrence, Walker, Baker, Smith and Westlake.

United States—Kent, Wheaton, Woolsey, Halleck, Field, Forbes, Scott, Wharton, Davis, Moore, Bridgman, Snow and Taylor.

France—Funck-Bretano and Sorel, Pradier-Fodere, Bonfils, Despagne, Piederievre, Gallaudet.

Germany—Schmalz, Kluber, Saalfeld, Heffter, Oppenheim, Bluntschli, Hartmann, Holtzendorff, Bulmerincq, Gareis, Ullmann, von Liszt.

Italy—Casanova, Fiore, Carnazza-Amari, del Bon, Sandona, Pertille, Pierantoni.

Japan—Takahoshi.

Spain—Bello, de Pando, Riquelme, Alcorta, de Olivart, Acosta, Cru-chaga.

Miscellaneous—Bornemann, von Martens, Ferguson, Rivier, Matzen, Nys.

Argentine Republic—Calvo.

' known on earth is that at the head of the nation. There are now more than fifty such heads, and there are at all times many controverted questions of right between them for the determination of which there is no recognized and generally accepted law. As commerce is extended and inventions multiply new questions of right and of expediency and utility arise calling for authoritative settlement, yet no such power exists. Arbitration is a primitive alternative for strife, and accomplishes good results in most cases where the parties agree to submit to it, but it lacks the essential attributes of an efficient judicial system. It starts with an agreement to arbitrate and ends with voluntary submission to the award of the arbitrators. To be efficient a court must be constituted in advance, have power to receive complaints and compel answers to them, decide the controversy and enforce performance of its judgment. Sovereigns, especially those whose power is based on military combination, have thus far refused to submit to the authority of any tribunal questions affecting national honor or vital interests. As these are the matters over which nations go to war, arbitration treaties which exclude them amount to no more than a means of disposing of minor controversies, leaving the major ones to the arbitrament of force.

The theory of the government of the United States is that every officer from President to the lowest employee of the government is subject to the law, and that all governmental functions are carried on by authority of and in accordance with law. The Constitution defines and distributes governmental powers. It recognizes the existence of international law and gives the Congress power—

“To define and punish piracies and felonies committed on the high seas and offenses against the law of nations.”⁴

The growth of the law of nations has been very similar to that of the common law of England. Customs more or less general have been accepted as binding rules of conduct. Among these customs is one which runs back to time immemorial, that of waging war at will against any adversary that the sovereign may select, and for any cause or on any

⁴ Const. of U. S. Art 1, Sec. 8.

pretext. The struggle having started, international law undertakes to prescribe rules regulating the conduct of it, much as the now discarded code of private warfare regulated duelling. The warring nations have a fixed character as belligerents, and are accorded the right to interfere with the business of their non-combatant neighbors in many ways on the ground of military necessity. Neutral nations must submit to have their commerce restricted in order that the combatants may carry on the struggle. The Hague Conventions and the Declaration of London, to which all the leading nations taking part in the great war were parties, gave definiteness and binding force so far as international agreement can do so, to the laws regulating warfare on sea and land, yet it would be difficult to point out any important provision in these Conventions that has not been violated, not only once but many times during the struggle.

Until very recent times the growth of governments and governmental agencies stopped at the supreme power in the nation, and such agencies as it saw fit to establish in foreign countries by permission of their local governments. This growth has usually centered around the military combination through which mastery at home is maintained and the enforcement of rights or claims against other states is made. In historical accounts of the rise of states military organization and achievement hold first place. Patriotism is a virtue almost universally lauded. It is generally regarded as ending in devotion to the interests of ones own country, and many appear to think that its merit is enhanced by hatred of a nation or race with which the nation comes in conflict in the advancement of its apparent material interests. Yet it is not difficult to perceive that in a country like the United States patriotism has a far different meaning from what it had in a little Greek city state. Here the city, whether a little country town or the great metropolis, is of minor importance, and never thought of as the object of patriotic devotion. With the increase of business and social intercourse state boundaries have become of minor importance, and, when we consider that the people of the United States have gathered in from all na-

tions and races on the earth, and that some of our fellow citizens are closely related to the people of all other nations, it becomes evident that our concern for others cannot stop even at the boundaries of the nation. Our citizens travel and have business dealings in every nation, and we are therefore directly interested in the peace, good order, and welfare of the people in all parts of the earth. We have just been drawn into the greatest war of all time because the right of our people to cross the sea with their goods was ruthlessly invaded under a claim of belligerent right. Thus we find that true patriotism calls for more than devotion to our own country, and makes the welfare of the whole world the object of our care. The community of states, like a community of persons, has its common interests. As it regards international relations, the theory of ultimate and absolute sovereignty in the nation is palpably false, as clearly so as the claim of sovereignty in each member of the small community would be. Manifestly the right of each is restricted by the corresponding right of each other. There is the same need of laws agreed upon, published, and understood for the government of nations in their dealings with each other that there is for municipal law governing the relations of individuals. How shall such laws gain expression, how shall they be given sanction? Manifestly by the general consensus of all the peoples, for we know of no higher test of the justice of laws than the judgment of all the people whom they affect.

Though many writers on the subject of international law express their views concerning the justice and injustice of the rules they discuss, no writer asserts that all the rules which he regards as recognized law are just or nearly so. His criticisms of the rules which are regarded as law are generally designed to induce the modification of them or the adoption of better ones. By this process of discussing the merits and demerits of prevailing doctrines and practices much has been done to educate the world and induce rulers to advance their standards of conduct to a nearer approximation to ethical principles. This process of evolving law by the reasoning of publicists is slow and uncertain, and is so recognized by the

writers themselves. Grotius recognized the need of some more authoritative expression of it. He says—"It would be useful, and indeed it is almost necessary, that certain congresses of Christian Powers should be held, in which controversies which arise among some of them may be decided by others who are not interested; and in which measures may be taken to compel parties to accept peace on equitable terms."⁵ The Congress he suggests it will be observed is not so much for the purpose of establishing rules governing the relations of states as of settling particular controversies between them. Vattel speaks of congresses for like purposes.⁶ Legislation by representative bodies was not carried on to such an extent in their time as of late. We shall consider hereafter in detail the Conventions adopted by the representatives of many nations, which may quite fairly be classed as pieces of international legislation. These will show how rapidly the nations are coming to recognize the fact that ultimate earthly sovereignty lies outside the boundaries of any nation.

While as between nations international law has been without adequate sanction and mainly dependent on its inherent moral force and the consensus of world opinion for its observance, within each of the leading nations it has been given definite and binding form in many particulars among its people by legislative enactments and the judicial decisions of its courts which become binding in the particular case and precedents for like cases at home and abroad. Cases involving the same question have been presented to the courts of many nations, and where all concur in maintaining the same rule it may fairly be regarded as the settled law. Great numbers of such cases have been considered by the courts of the leading countries, but unfortunately there is still much diversity of opinion among them on many questions, and no tribunal exists that has power to harmonize differences or correct errors. Each of the great nations has its court of last resort, vested with power to review and reverse the rulings of lower courts which are not in accordance with its views of the law. In this

⁵Grotius, *De Jure*, B. 2, Ch. 23, § X, Art. 4.

⁶Vattel, 278.

manner the law is made uniform within the nation, but this uniformity cannot be enforced beyond its boundaries.

AMBASSADORS AND DIPLOMATIC AGENTS

X

Ambassadors both in peace and in war were employed by the ancients, but only for special missions to transact particular business intrusted to them. Ministers resident at the court of a foreign power are not mentioned in ancient history. Though the Athenians and Spartans put the ambassadors of Darius, who came to demand earth and water in token of his supremacy, to death, the Spartans afterward acknowledged that in doing so they had committed a heinous crime. The general rule was that while on their missions the persons of ambassadors were inviolable and they were entitled to hospitable treatment even by enemies.⁷ When the particular business was concluded their mission was ended and they returned to their home country.

The modern system of ambassadors resident at the seat of government of the foreign state developed in the 16th and 17th centuries. Ambassadors were at first regarded with distrust by some nations as being in fact spies, but the practice of sending and receiving them became firmly established after the peace of Westphalia. Their legal status is now quite definitely fixed by the law of nations and very generally respected.⁸

The governmental agencies through which international dealings are carried on are now well defined and very similar in all nations. Each government has a department of foreign relations at the head of which is a minister, variously named, who is a member of the cabinet. In the United States the Secretary of State is at the head of the department of foreign affairs. In the cabinets of most European states there is a member called the Minister of Foreign Affairs. All dealings with foreign nations are ordinarily carried on through the department of Foreign Affairs. The executive head of each nation appoints such diplomatic officers to represent it at the

⁷ Herod, VIII, 136. Theuc. Lib. II-67. Code of Manu, Ch. 7-63-64.

⁸ 1 Kent, 15. Taylor, Sec. 274.

seats of government of other nations as it sees fit. The larger nations all make such appointments to each of the other principal nations. Some of the smaller ones do not maintain a general system of foreign embassies. Diplomatic officers have been given rank and classification in the following order:

1. Ambassadors, Papal Legates or Nuncios.
2. Envoys, Ministers and other agents accredited to sovereigns.
3. Ministers resident accredited to sovereigns.
4. Charges d' Affaires accredited to the minister of foreign affairs.⁹ The distinctions between these classes relate to diplomatic precedence and etiquette rather than to essential powers or rights under international law.¹⁰ The appointment of diplomatic officers is made by the sovereign or executive head of the government. In the United States it is made by the President, confirmed by the Senate.

Ambassadors and other diplomatic agents are absolutely free from allegiance to the nation to which they are accredited, and are not subject to its laws or the jurisdiction of its courts. Their persons are inviolable.¹¹ These immunities are declared by statute in England¹² and the United States.¹³ The immunity continues for a reasonable time after his recall or dismissal.¹⁴ The privileges and immunities of an ambassador extend to his family and the members of his official household.¹⁵ The equipage, property and house of the ambassador are entitled to the same immunity as his person.

While each nation is free to appoint such persons as it sees fit as its representatives at a foreign capital, the government to which they are accredited is not bound to receive them if they are personally obnoxious. To decline to receive an ambassador on the ground that he is *persona non grata* is not re-

⁹ Wheaton, Int. Law, Sec. 211.

¹⁰ 1 Kent, 39. Wheaton 299.

¹¹ 2 Corpus Juris 1302.

¹² 7 Anne c. 12.

¹³ U. S. Rev. Stats. §§ 4062, 4065.

¹⁴ Musurus Bey v. Gadban 1 Q. B. 533. Vattel, 500.

¹⁵ U. S. v. Benner, 24 Fed. Cases 14,568. Taylor v. Best, 14 C. B. 20.

garded as an affront to the government appointing him, but the exercise of a clearly established right. The theory of modern diplomatic intercourse is that it is designed to promote friendly relations and afford a convenient and efficient method of adjusting all questions arising between the governments. It is therefore necessary that the representative of the foreign government be a person with whom it is agreeable to deal. As a result of this custom there is at the capital of each of the leading nations a body of diplomats representing all the other nations that see fit to be so represented. Though these diplomats are in general commissioned solely to deal with the government to which they are accredited, they in fact are often empowered to deal with representatives of other nations on matters of general concern. Through informal conferences and social intercourse among the members of the diplomatic corps matters of general interest are sometimes brought to the attention of their governments, and they are often appointed plenipotentiaries to represent their government in general conferences for the purpose of dealing with matters of general interest to a number or all of the nations.

The ambassador represents his government in all dealings with the power to which he is accredited which are committed to his charge. The regular line of communication is for his home government to send to him all notes, messages and communications addressed to the power to which he is accredited, and he then delivers them to the foreign office. Answers to such communications and messages to his government may be passed through him, or through the ambassador resident at the seat of his government. When matters of very great importance are under consideration sovereigns and prime ministers sometimes confer directly with each other, but such conferences are quite exceptional and the final binding agreement is always made through the foreign offices. For the negotiation of treaties and conventions special ministers plenipotentiary are often appointed. The executive head of each nation employs such agencies and follows such methods as it sees fit in dealing with other powers. Whatever the particular powers or designation of these agencies, they are all entitled

to the privileges and immunities of ambassadors. The rank of each and the extent of his powers is determined by the government appointing him.¹⁶

Nations which have only a qualified sovereignty sometimes send and receive diplomatic representatives, but only those states which are recognized as enjoying full sovereignty are generally accorded this right.

As the ambassador or other minister does not subject himself to the laws of the country to which he goes, it naturally follows that he and all his household, domestic and official, remain subject to the laws of his own country. This law in all civil matters the minister himself administers over those attached to his legation.¹⁷ If criminal offenses are committed by them he may send them to their own country for trial or deliver them up to the courts of the State where the offense is committed. Formerly ambassadors sometimes exercised criminal jurisdiction over their suites, but the modern usage is otherwise.¹⁸ While the personal effects of the minister are exempt from the jurisdiction of all local officers, if he engages in any business not connected with his mission or deals in real or personal property otherwise than for use in his family or office, he is, as to all such transactions, subject to the laws of the country where they take place,¹⁹ but it has been held in England that as to such dealings the ambassador cannot be sued, but that the remedies of a creditor are confined to process against the property as to which the exemption does not apply.²⁰ The Constitution of the United States gives the Supreme Court original jurisdiction "in all cases affecting Ambassadors, other public Ministers and Consuls,"²¹ but this does not change the law which exempts them from the jurisdiction of the courts of the country to which they are accred-

¹⁶ Wheaton, § 226. Vattel, 498.

¹⁷ Wheaton, § 214.

¹⁸ Wheaton, § 215.

¹⁹ Wheaton, § 227.

²⁰ *Magdalena S. N. Co. v. Martin*, 2 E. & E. 94, 105 E. C. L. 94. Vattel Book 4, Ch. IX § 113.

²¹ Const. of U. S. Art. 3, § 2.

Local jurisdiction cannot be exercised so as to interfere in any way with the minister's freedom of diplomatic action, the property of his legation, except regulations necessary to the health and safety of the community.²³ Assaults and offenses committed against foreign ministers are punished by the courts of the country where the offenses are committed.²³

The diplomatic officers who are entitled to the privileges and exemptions of ambassadors are defined in the United States by statute. "'Diplomatic officer' shall be deemed to include ambassadors, envoys extraordinary, ministers plenipotentiary, ministers resident, commissioners, charges d'affaires, consuls, agents, secretaries of embassy and legation, and officers in the Diplomatic Service and none others."²⁴

The mission of a diplomatic officer may be terminated at any time by recall by his own government or dismissal by the government to which he is accredited. His functions can only be exercised while peaceful relations subsist between his country and that to which he is sent. On the breaking out of hostilities he is entitled to a safe conduct out of the enemy country and a reasonable time to leave it.²⁵ Diplomatic intercourse has been greatly extended in recent years. In 1827 Henry Clay was appointed charge d'affaires at the court of Denmark and from that time till 1835 was the American representative for all Germany and Austria, there being no other country between either of these countries.²⁶

At Wheaton's time the number of diplomatic officers throughout the world has increased very greatly, and the business transacted through them now includes a multiplicity of subjects of both public and private concern. Increased travel, commerce, and foreign investments, greatly complicate international relations, and call for the settlement of many cases. 11 Int. L. 180, Glenn Int. L. 70. Gladstone v. Musurus Bey, 32 L. R. 155.

S. v. Little 2 Wash. (U. S.) 205. U. S. v. Benner, 24 Fed. Cases

S. Comp. Stats. (1918) § 3116.

Int. L. Book 4 Ch. IX § 125.

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questions that could not have arisen a hundred years ago. The great banking houses of the world have their agencies in all countries with which their home country has large commercial dealings. Through them investments and loans of many kinds and for many purposes are made. The railroads of the Americas, Asia and Africa have been financed and built in great part by European capitalists. Telegraph cables owned by great corporations have been stretched across the oceans which are the common property of all the nations. Wireless telegraphy now supplements communication through wires. Electrical force reaches not only across the seas but throughout every nook and corner of the land, and is a common property, through which all people of the earth become neighbors within speaking distance of each other. Its uses for the promotion of good fellowship and common interests are but in their infancy, and their value is incapable of measurement. The great war has stimulated aviation to the point that navigation of the air is no longer a dream but a most important reality. The winds blow across lands and seas, and like the ocean the air is the common property of all. National boundaries cannot contain it, and mere national parliaments cannot regulate its use. Under the present organization of the world into so many sovereign nations all these conditions are constantly giving rise to questions to be settled by diplomacy and, where that fails, by war.

Through diplomatic officers all questions affecting the general interests of the nations, and the particular interests of their subjects which they cannot settle between themselves, must be handled and adjusted. If a private citizen has a debt owing to him from or a claim for damages for injuries sustained against a foreign government or any of its citizens or subjects for which satisfaction is denied him, he may apply to the foreign department of his own government for relief. It is for his government then to determine whether or not it will take action. Many considerations other than the merits and justice of his claim may influence the political departments of his government in deciding what shall be done about it. The state of international feeling, the existence of counter

demands of a similar character, the pendency of more important negotiations which might be affected by making the claim, and all the various complications with which statecraft has to deal must be weighed and considered. In a circular addressed to the representatives of Great Britain in foreign countries in 1848 Lord Palmerston said, speaking of claims on bonds and securities of foreign states: "It is for the British Government a question of discretion, and by no means a question of international right, whether they should or should not make this matter the subject of diplomatic negotiation."²⁷ Torts committed by foreign governments or their nationals are regarded as entitled to more consideration, because of the obligation of the government to protect its citizens in their persons and property against all foreign powers.²⁸ This indeed has always been regarded as one of the fundamental purposes of organized government and akin to that of protecting its own subjects against the aggressions of each other.

The manner of calling on the government of the United States to assert a claim against another nation is pointed out in a circular issued by the Department of State March 6, 1901.²⁹ A claim of an individual against a foreign government so presented becomes the property of the government of the aggrieved citizen, which it has the absolute right to relinquish or settle as it deems best, and after adjustment between the governments the citizen has no further claim against the foreign government, but only against that of his own country.³⁰ Where the United States releases a just claim against a foreign country it is liable to the citizen for the loss of his claim.³¹ No court however has power to enforce payment of any claim by the United States.

Where the claim is such that it may be asserted by the claimant in the courts of the foreign state and legal redress ob-

²⁷ Hall Int. Law, 294, 295.

²⁸ 22 Cyc. 1734.

²⁹ 22 Cyc. 1741, note 50.

³⁰ Meade's Case 2 Ct. Cl. 224.

³¹ *Ware v. Hylton*, 3 Dallas (U. S.) 199, 245, *Gray v. U. S.* 21 Ct. Cl. 340, 390.

tained, the government ordinarily will not interfere in behalf of the claimant.³²

Diplomatic settlements may be effected directly by agreement arrived at between the representatives of the governments, or indirectly by the submission of the matters in controversy to arbitration. Great numbers of claims, public and private, have been settled in this manner.³³ As commercial and social intercourse between nations increases the volume of such claims grows and is sure to continue to grow at an increasing rate.

So long as peaceful relations subsist between two nations, the business of the foreign offices goes on through the regular diplomatic channels, but war terminates them, and the ministers must promptly return to their own countries with all their records and belongings. Such communications as pass between the warring nations are sent through the diplomatic representative of some neutral power to whom the belligerent intrusts the care of its interests. During the great war many communications have in fact passed directly from one power to the other by wireless telegraph, but these are not deemed official. All formal dealings have passed through regular channels of communication.

The judicial power of diplomatic officers is usually limited to their official and domestic families, but more extended jurisdiction is sometimes given them. The United States has vested its ministers and consuls appointed to reside in China, Japan, Siam, Egypt and Madagascar with authority to arraign and try citizens of the United States charged with offenses against law, committed in such countries, and to pass sentence on the offenders, and also authority to execute the provisions of the treaties with those countries in regard to civil rights and jurisdiction in matters of contract at the port nearest to which the contract was made. This jurisdiction embraces all controversies between citizens of the United States and of such others as are provided for in the treaties, and is

³² 7 Moore Dig. Int. L. 987 et seq.

³³ For an extended summary of International Arbitrations see Moore's History of International Arbitrations, Vols. 1, 2 and Appendix 3, Vol. 5.

to be exercised in all cases in accordance with the laws of the United States. Consuls and commercial agents in countries not inhabited by civilized people are given like power in civil cases involving \$1,000 or less, and criminal jurisdiction of crimes committed by citizens of the United States.³⁴

CONSULS

Consuls are not diplomatic officers, but are sometimes called on and temporarily appointed to perform diplomatic service in the absence of all the members of a legation. The duties performed by the consuls and vice-consuls in different countries are not uniform, but dependent on treaties and the laws of the country appointing them. All the consuls of the United States are commercial agents and as such required to make reports to the Secretary of State of the exports from and imports to the places to which they are accredited, the market prices of the various articles of commerce and the wages paid for labor within their jurisdictions. Where the laws of the country permit, it is their duty to take charge of and conserve the estates of citizens of the United States, other than seamen belonging to any vessel, who die within their consulates leaving no personal representative, partner or trustee appointed by him to take care of his effects.³⁵ They are also charged with the duty to investigate the complaints of seamen and protect them in case of discharge in a foreign port, and to provide passage home for destitute seamen.³⁶ By statutes and treaties judicial powers are conferred on many of them, especially in poorly organized countries. Consular treaties in great numbers have been entered into by the various governments. Consular officers of the United States are authorized to solemnize marriages and certify them to the Department of State.³⁷ All consular officers are authorized to administer oaths, take and certify depositions, and perform any act that a notary public is authorized to perform within the United States.

³⁴ Revised Statutes of United States §§ 4084, 4085, 4086, 4087, 4088.

³⁵ Compiled Statutes of United States (1918) § 3162.

³⁶ Compiled Statutes of U. S. (1918) §§ 8368 to 8374.

³⁷ Compiled Statutes of the U. S. (1918) § 3211.

TREATIES

The peaceful relations and intercourse between nations and their respective citizens goes on in accordance with established customs and general principles recognized as international law, supplemented by such treaties as they mutually agree upon. A treaty is a formal agreement entered into by two or more sovereignties, binding on the nations as political entities and on their citizens and subjects individually and collectively. It is based on the idea of the unity and personality of the state, and its capacity to contract for all its people. Treaties are in no sense a modern invention. They are mentioned by the most ancient of historians. War may end by the extermination of one of the parties to it, as often happens among savage tribes, by the subjugation of one of the parties to terms dictated by the conqueror, or by a treaty between the parties fixing the terms on which peaceful relations are to be resumed. In modern times most wars between civilized states end in a treaty of peace. The treaty becomes a contract between the parties, ending the controversy and containing provisions to be observed as rules of right and conduct by and between the nations and their people. These rules do not bind any nation not a party to it, or become a part of general international law.

Without attempting anything like a comprehensive review of ancient treaties a few conspicuous ones may be mentioned. Solomon and Hiram, king of Tyre, entered into a treaty under which Solomon was given cedar and fir trees for the temple he was about to build, in exchange for wheat and oil for Hiram's household. Pursuant to this treaty Solomon sent his men to Lebanon and cut and removed the timber he needed and Hiram's builders and Solomon's builders worked together on the timbers and stones of the temple, "and there was peace between Hiram and Solomon; and they two made a league together."⁸⁸ When Cambyses of Persia applied to the Phoenicians for ships for an expedition against Carthage, they answered that they were bound by a treaty of amity and ties of blood to Carthage, and therefore refused his request.⁸⁹

⁸⁸ 1 Kings, Ch. V.

⁸⁹ Herod, b. iii 19.

Montesquieu says "The noblest treaty of peace ever mentioned in history is, in my opinion, that which Gelon made with the Carthaginians. He insisted on their abolishing the custom of sacrificing their children."⁴⁰ The Sicilians under Gelon had just destroyed the great army and fleet sent against them by the Carthaginians, and the only condition of peace imposed was the abolition of an inhuman custom.

A treaty was entered into between the Romans and the Jews in the time of Judas Maccabaeus, 161 B.C., providing for mutual aid in case of war.⁴¹ It seems that the early Roman consuls were without power to conclude a binding treaty, for when the two consuls commanding the Roman army were taken prisoners by the Samnite leader, Caius Pontius, and made a treaty with their captor, the treaty was rejected at Rome and the consuls, who had been released on the faith of the treaty, were returned to the Samnites, accompanied by the Fetiales who refused to sanction the treaty, but Pontius again released them.⁴² About 508 B.C. the Romans and Carthaginians concluded an important commercial treaty by which the Romans were prohibited from sailing beyond Fair promontory, near Carthage, and fixing the dues to be paid at the port of Carthage.⁴³ Prior to the invasion of Greece by Xerxes he entered into a treaty with the Carthaginians by which the latter agreed to invade Sicily at the same time that he invaded Greece.⁴⁴ From the earliest times until the Roman conquests covered most of the known world, treaty-making was carried on by the Greeks, Persians and their neighbors, but each party to a treaty had to rely on the good faith of the other for its observance. No method of enforcement of treaty obligations other than by war waged by the aggrieved party and such allies as he could get was devised.

As gunpowder put an end to the military system of feudal times, and kings came to rely on paid mercenaries and stand-

⁴⁰ Spirit of Laws, b. x, ch. 5.

⁴¹ I Maccabees. c. 8.

⁴² Liv. lib ix.

⁴³ Polyb. I, iii, 247.

⁴⁴ Diod. I xi, p. 1-16-21.

ing armies instead of the knightly services of their retainers, the power of kings increased. The theory of rulership by right Divine, inculcated by the Roman Church in its own and their interest, emancipated the princes from all accountability to the people over whom they ruled. Kingdoms were regarded as property of the sovereigns, to be acquired and disposed of as the king saw fit. Treaties were mostly agreements between crowned heads for the advancement of their personal and political interests. Matrimonial alliances, which had played such an important part throughout feudal times, were still a very important consideration in many treaties between kingdoms. Treaties remained secret unless the monarchs who were parties to them deemed it to their interest to make them public. This most pernicious practice of making secret treaties has persisted to the present time, and seems to be in some degree responsible for the awful war which has just terminated.

With the growth of commerce and the increase of intercourse between nations treaty-making has been greatly stimulated, and commercial interests have prompted a very large part of the treaties, especially between the new and the old world. In Europe territorial aggrandizement and military and naval supremacy have still occupied the attention of diplomats, and as a result of wars and diplomacy the political map of Europe has been changed many times and in most important particulars within the memory of the writer. Treaties between pairs of nations have been made in very great numbers in recent years. Great Britain has been the most active of all the nations in its diplomacy, and its treaties fill many large volumes.

From the earliest times to the present day all treaties between nations have been negotiated and formulated by their diplomatic agents. These are ordinarily appointed by the executive head of the nation. Treaties thus negotiated usually require ratification, and there is much diversity now in the laws of the different countries as to the requirements with reference to ratification. These agents are usually denominated plenipotentiaries, and are furnished with letters defining their

full powers, to be exhibited and copies of which are furnished by and to each other.⁴⁵ These letters show the scope of the minister's power. He is ordinarily furnished with instructions which he is not required and it would usually be injudicious to communicate to the other party.

Where the people of the two nations speak different languages, duplicates are usually drawn, one in each language. Both are deemed original and entitled to equal consideration.⁴⁶ Conventions to which many nations are parties are usually in a single original, written in the language agreed on, the French being the favorite where the parties speak many different languages. If translations are also made and signed, provision is made in the treaty itself for the deposit of the original in the foreign office of a party named. Thus the Hague Conventions were deposited with the government of the Netherlands.

Early writers regarded the sovereigns as bound by the acts of their plenipotentiaries in making treaties within the scope of their full powers,⁴⁷ but ratification by the proper officers or body in each government having power to do so is now generally understood to be necessary before the treaty takes effect.⁴⁸ In the distribution of the powers of government in the different nations there is much diversity as to the ratification of treaties.

The Constitution of the United States in the enumeration of the powers of the President provides that—"He shall have Power, by and with the Advice and Consent of the Senate, to make Treaties, provided two-thirds of the Senators present concur."⁴⁹ The established practice is for the President to submit the treaties which he has caused to be negotiated to the Senate for ratification. The Senate then either ratifies, amends, or rejects the treaty. Where a treaty fails of ratification when submitted to the Senate, the vote is not neces-

⁴⁵ Wheaton §§ 217-218.

⁴⁶ Crandall, *Treaties, their Making and Enforcement*, § 169.

⁴⁷ Pothier on *Obligations*, Pt. 1, c. 1, Art. V, § 4, Grotius B. 2, c. xi, § 12. Vattel B. 2, c. xii, § 156.

⁴⁸ Crandall, *Treaties &c*, § 155.

⁴⁹ Const. of U. S., Art. 2, Sec. 2.

sarily final but may be reconsidered and further action taken.⁵⁰ If the treaty is amended the amendment must of course be agreed to by the other party before it takes effect. After full ratification by both parties the President proclaims the treaty and it then becomes the law of the land.⁵¹ As respects the rights of either government under it, a treaty is considered as concluded and binding from the date of its signature, but in the United States it only becomes the law of the land affecting the rights of individuals upon proclamation by the President.⁵² While a treaty so made ratified and proclaimed is regarded as binding on the United States, it may fail of execution for want of the necessary legislation to carry it into effect, unless such legislation is obtained before the final exchange of ratifications. Under the distribution of governmental powers in the United States, Congress may refuse to appropriate money or pass laws necessitated by the treaty, or state legislatures may fail to give effect to its provisions. The President and Senate, though clothed with full power to make the treaty, have no power to compel Congress or the States to act.⁵³

In Great Britain the power to make treaties is a prerogative of the Crown, but in fact exercised by a ministry responsible to Parliament. This power includes that of ratification, and it is not the practice to submit treaties to Parliament before ratification. Where legislation is necessary to carry the treaty into effect, it is customary to procure the legislation in advance of the exchange of ratifications. In discussing the rule as to ratification of British treaties in the House of Lords, Earl Grey said: "Ever since I have been in Parliament I have invariably heard the rule of our Constitution and of Parliament stated by the highest authorities to be this—that treaties were never to be laid before Parliament until they had been ratified; that the responsibility of ratifying or refusing ratification

⁵⁰ Ex. Journal IX, 306, 312, X, 139, 144. XXIV, 141, 205, XXX, 358, 359, 377, 378.

⁵¹ Moore Int. L. Dig. V, 210.

⁵² U. S. v. Arredondo, 6 Peters, 691, 748. *Hower v. Foker*, 9 Wall. 32.

⁵³ Wheaton 266. *Foster v. Neilson*, 2 Peters, 314.

rested with the ministers; that when a treaty had been ratified it was quite competent for Parliament to censure the conduct of ministers, and that the Crown had never been in the habit of abdicating responsibility and presenting treaties before they were signed."⁵⁴ Later Mr. Asquith, replying to a question, said that if a treaty involved any alteration of statute law the assent of Parliament was needed, and if it required funds to carry it into effect it would be proper to submit the matter to the House before the treaty was ratified.⁵⁵

In France the power to make and ratify treaties is defined by Article VIII of the Constitutional law of 1875 which provides that the President of the Republic negotiates and ratifies the treaties. He is to inform the Chambers in regard to them as soon as the interest and safety of the state permit. Treaties of peace, of commerce, that engage the finances of the State, those that relate to the status of persons and to the right of property of Frenchmen abroad are not definitive until they have been voted by the two Chambers.⁵⁶ From this it appears that treaties of the excepted classes require full legislative sanction in France before they become operative. The legislative approval is given in the form of a law authorizing the President to ratify the treaty and cause it to be executed. This action, like that of the Senate of the United States, regularly follows the signing and precedes the ratification of the treaty.⁵⁷

The King of Belgium makes treaties but "Treaties of commerce or imposing obligations on the Belgians must be ratified by both houses," and "No act of the King shall have any effect, if it be not countersigned by a Minister who, by this act alone, makes himself responsible."⁵⁸

For The Netherlands the king makes and ratifies treaties but, treaties that contain provision for changes of the territory of the state, that impose on the kingdom pecuniary obligations, or that contain any other provision concerning rights estab-

⁵⁴ Hansard's Debates, CCVI, 1106.

⁵⁵ 197 Parl. Debates, 1236.

⁵⁶ Dodd, *Modern Constitutions*, I, 292.

⁵⁷ Crandall, *Treaties &c.*, § 130.

⁵⁸ *Const. of Belgium*, Art. 64.

lished by law shall not be ratified by the King until after their approval by the States-General, unless the power has been given the King by law to conclude such treaty.⁵⁹

The Constitution of Italy contains similar provisions. The King makes treaties, but those that involve financial obligations; or a change of territory of the state, do not have effect till they have received the assent of the Chambers.⁶⁰ Legislative approval is given in the form of a law authorizing the treaty to be carried into effect.

The King of Spain has power to make treaties but requires authorization by law: To alienate, cede or exchange any part of Spanish territory; To incorporate any other territory into Spanish territory; To admit foreign troops into the kingdom; To ratify treaties of offensive alliance, special treaties of commerce, those that stipulate to give subsidies to any foreign power, and all those that may be binding individually on Spaniards.⁶¹

For Switzerland treaties are negotiated by the Federal Council and ratified by the National Assembly.⁶² The Cantons like the American States are forbidden to make treaties with foreign nations.

The kings of Sweden, Norway, Denmark and the Balkan States make treaties, the King of Sweden after consultation with the Minister of State and two other members of the Council of State, but he cannot dispose of any part of the kingdom.⁶³ A similar restriction is placed on the power of the King of Denmark and also prohibiting him from entering into any engagement for a change of the existing constitution.⁶⁴ In the Balkan States legislative assent is necessary in certain cases. The Emperor of Japan has full power to make and ratify treaties.⁶⁵

⁵⁹ Dodd, *Modern Constitutions*, II-91.

⁶⁰ Dodd, *Modern Constitutions*, II-5.

⁶¹ Crandall, *Treaties &c.* § 146.

⁶² *Const. of Switzerland*, Arts. 8-85-95.

⁶³ Dodd, *Modern Constitutions*, II-219.

⁶⁴ *Brit. & For. State Papers*, 58-1235.

⁶⁵ Dodd, *Foreign Constitutions*, II-25.

For Mexico and Cuba treaties are made by the President but must be ratified by the Senate. In all the other American Republics legislative ratification is required.⁶⁶

In the manner pointed out by the constitutions of the various nations respectively treaties in very great number have been negotiated and ratified by the nations. A very large majority of these treaties are between pairs of states and do not purport to affect other states. The influence of these treaties in promoting peaceful relations and commercial intercourse has been very great. The instances in which nations refuse to fulfill their treaty obligations are rare and exceptional. Like contracts between private persons, they fix the rights of the parties, and afford their citizens rules of property and of conduct. Where all their provisions are given the same interpretation by both parties and faithfully observed, the relations of the nations that are parties to them in the field covered by the treaty are satisfactorily adjusted. But with them, as with private contracts, there are cases in which the parties disagree as to the meaning of the treaty, and cases in which one of the parties refuses to abide by its terms. If the parties to a private contract differ as to its meaning there is in every civilized state a court with power to decide between them on the application of either party and due notice to the other. If one party refuses to perform his obligation the court has power to and will compel him to do so. When nations disagree as to the meaning of their contracts or refuse to abide by them there is no court to resort to. The various arbitration treaties that have been entered into, except that of the Central American Republics with each other, require another treaty, designating the arbitrators and stating the question to be submitted to their decision. Having made an award the arbitrators have no power to enforce performance of it. Arbitration has been very useful in settling disputes between nations mutually desirous of maintaining friendly relations. It fails utterly if one of the parties is seeking occasion for war. The alternatives presented to the aggrieved party in case of the violation

⁶⁶ Crandall, *Treaties &c.*, § 153.

of a treaty are, a new treaty or agreement to arbitrate if the other party will consent, or war.

The questions arising with reference to the interpretation of treaties are clearly susceptible of judicial determination. Most of the rules used as guides for determining the meaning of private contracts are recognized in international law as also applicable to treaties, but there are some slight exceptions. Where duplicate originals in the different languages of each of the parties are executed, both must be construed together and harmonized if possible. Where there was a clear discrepancy in the texts of a treaty between Spain and the United States, it was held that the text in the language of the grantor, Spain, must prevail over that in the language of the grantee.⁶⁷ In the United States treaties become a part of the law of the land and are enforced as such by the courts. If a construction has been given to the treaty by both parties it will be followed by the courts, and the courts of the nation will ordinarily follow the construction placed upon it by the political department of the government, though they are not bound to do so.⁶⁸ Generally the meaning of a treaty is to be ascertained by the same rules of construction and course of reasoning as is applied in the interpretation of private contracts.⁶⁹ Vattel discusses the interpretation of treaties very ably and at much length and lays down a number of rules to be observed.⁷⁰ All of them are designed to aid in arriving at the real intent of the parties.

Where only two nations are concerned in the matter of a treaty, it is entirely competent to dispose of it by agreement in any manner they mutually see fit, but, as the intercourse of nations is extended, a network of varied interests arises, for the adjustment of which an agreement of a number or even of all the nations becomes necessary. The preservation of peace is always a matter of interest to all the nations having intercourse with those between whom a matter of difference arises.

⁶⁷ *U. S. v. Arredondo*, 6 Peters (U. S.) 691-741.

⁶⁸ *Castro v. De Uriarte*, 16 Fed. 93-98. 38 Cyc. 970.

⁶⁹ 1 Kent, 174, Grotius B. 2, c. 16.1. Vattel B. 2, c. 17, § 270. Puffendorf, 5-12-1. *Foster v. Neilson*, 2 Peters (U. S.) 253.

⁷⁰ Vattel B. 2, c. 17, § 311 to 321.

These considerations have led to conferences of plenipotentiaries of a number of nations at which conventions were signed by some or all of them covering the particular matter under consideration. These conferences have multiplied in recent years, and many of them have produced conventions designed to be world wide in their effect, and to which all the nations have been invited to adhere and become parties. The work of these conferences foreshadows a general system of formulating international law by bodies representing all the nations.

Some idea of the recent growth and decay of states as well as of the progress of treaty making among the nations may be gained from the treaties made by the United States with other powers since the colonies gained their independence. From 1782 to 1799 inclusive sixteen treaties were concluded with different nations as follows: Algiers 1, France 3, Great Britain 6, The Netherlands 2, and Prussia, Spain, Sweden and Tripoli, one each. Since then more than four hundred and fifty separate treaties with different countries have been concluded. Of the countries with which these later treaties have been made, twenty are republics in the Americas, which have come into being since the beginning of the nineteenth century. Of the nations in the eastern hemisphere with which treaties have been made by the United States, twenty-eight have ceased to exist as independent sovereignties, and new sovereignties which did not exist at the time of our revolutionary war to the number of eight are included. Of the whole list only eighteen which were then independent nations still retain their political integrity, and many changes in the territorial possessions of these have taken place. Among these are included China, Japan, Siam and Persia, two of which date back far beyond the Christian era. Of the treaties above mentioned fifty have been between the United States and Great Britain and forty with Mexico. Many of these treaties with the last mentioned countries deal with questions of boundary and other conflicting claims of neighboring nations. Most of the other treaties relate to trade, patents, designs, copyright, extradition, claims, arbitration or naturalization. Recently conventions covering

most of these subjects have been entered into by considerable numbers of states with uniform provisions between all of them granting reciprocal rights.

In the early history of the United States treaties with the Indians were matters of great public interest. The first one made after the breaking out of the Revolutionary War was with the Delawares in 1778. It begins with a provision that all acts of hostility committed by either party against the other shall be "mutually forgiven, and buried in oblivion, never more to be had in remembrance." It then recites the existence of war against the King of England, and provides for the passage of the troops of the United States across the lands of the Delawares and for such supplies as they can furnish to be paid for by the commanding officers, "And the said deputies on behalf of their nation, engage to join the troops of the United States aforesaid with such a number of their best and most expert warriors as they can spare, consistent with their own safety, and act in concert with them." It then provides for the erection of a fort for the security of the old men, women and children of the tribe, and a garrison of as many troops as the United States can spare, and guarantees the Delawares the possession of all their territorial rights.

The next treaty made was with the Six Nations in New York. It was a treaty of peace, and provided for the giving of six hostages to remain in possession of the United States "till all the prisoners, white and black, which were taken by the Senecas, Mohawks, Onondagas, and Cayugas, or any of them, in the late war, from among the people of the United States, shall be delivered up." This treaty was concluded in 1784, and by it the western boundary of their lands was defined. Since then treaties have been concluded with more than three hundred tribes and bands, ratified by the Senate and proclaimed by the President. Many different treaties were made with some of the tribes; with the Sioux thirty; the Chippewas forty-three and with the Pottawatomies forty-four. This mode of dealing with the Indians was terminated by an act of Congress passed in 1871, which prohibited the making of

any more treaties with Indian nations or tribes.⁷¹ While the theories that the tribes were sovereignties, capable of making treaties, and that they and their members were wards of the government and under its special care and protection, appear to be contradictory, both have in practice served very useful purposes. Though the Indians had no law of land title, they claimed the forests and prairies as their hunting grounds and the streams and lakes as their fishing preserves. They had such possession of the country as their habits of life allowed. Their right of occupancy antedated that of the whites, and could not be denied on any moral ground. The government therefore procured relinquishments of their rights by treaty before granting the land to white settlers. On the other hand the Indians had no comprehension of values, and if allowed to deal freely with the whites would have been easily defrauded. The government therefore protected them. These policies have put an end to Indian warfare, allowed the whites to settle and improve the country, and preserved the Indians. All statements as to the number of Indians in the United States in early times are mere estimates based on very insufficient data. In 1782 Thomas Jefferson inquired into the subject, and his authorities varied in their estimates of the number within the limits of the territory of the United States at that time, which extended only to the Mississippi on the west and to Florida on the south, from 9,100 (in 1759) to 25,080 (in 1768), and of Indians outside the United States from 10,400 (in 1759) to 31,630 (in 1764).⁷² In 1890 the number in the United States, exclusive of Alaska, as shown by the Census was 248,253, of whom 58,806 were civilized and taxed.⁷³ In 1911 the number had increased to 307,913.⁷⁴ Though the territory of the five Civilized Tribes (Cherokees, Choctaws, Chickasaws, Creeks, and Seminoles), had been greatly reduced, the development of agricultural and mineral wealth on their lands has caused many of them to be very wealthy. There

⁷¹ Revised Statutes § 2079.

⁷² 11th Census, Part 3, p. 1115.

⁷³ 11th Census, Part 3, p. 1128.

⁷⁴ Statistical Abstract of 1911, p. 27.

has been much intermixture of white blood among them, and many of them are highly cultured and very delightful people. Many tribes have received individual allotments of land and become citizens of the United States. The descendants of the formerly dreaded savages are now our neighbors and friends. Treaty-making and guardianship have wrought the much desired results. These treaties are published in a large volume of 1053 pages and are full of matter of great interest to the student of American History.⁷⁵

EUROPEAN POLITICAL CONGRESSES

The Thirty Years' War, which devastated Europe, especially Germany, from 1618 to 1648, involved so many states that its settlement required a congress of all the leading powers. The peace of Prague, concluded in 1635 by only a part of the belligerents with the purpose of binding all, failed to satisfy the others and the savage warfare continued. It was stimulated by the combined venom of political ambition and priestly and religious hatred. Schiller in his *Thirty Years' War* gives a vivid picture of the desolation of Germany and the savagery of both soldiers and civilians. In 1642 it was arranged that representatives of Austria, Spain, France, and the Catholic states, should meet at Munster under the mediation of the Pope and the republic of Venice, and that the representatives of Sweden and the Protestant states should meet at Osnabrück under the mediation of the King of Denmark. But no meeting took place till 1644, and then the diplomats quarreled month after month over matters of precedence and ceremonial without making any attempt at negotiations. By the summer of 1645 a great concourse of diplomats and statesmen, representing all the principal Christian states of Europe, except Great Britain, had assembled, and such progress had been made that specific propositions were lodged with the mediators. These were discussed for two years without any progress being made, but the accumulated misfortunes and necessities of parties finally brought them to an agreement, and the treaty was signed at Munster on September 9, 1648.

⁷⁵ Compilation of Indian Treaties. (Govt. Print.)

By its terms the independence of Switzerland was acknowledged, France gained the bishoprics of Metz, Toul, and Verdun, the province of Alsace, and from the Duke of Savoy the town of Pignerol in Piedmont. Sweden acquired Upper Pomerania, the Isle of Rugen and various towns on the Baltic. Spain had acknowledged the independence of the Netherlands, June 30, 1648. Other territorial adjustments were made which now appear unimportant. The religious controversy had been the most virulent and tenacious, and proved to be one of the most difficult to settle. The Peace of Passau was finally taken as a basis, and the Calvinists were admitted to equal privileges with the Lutherans. Equality of religious rights was accorded to Catholic, Lutheran, and Calvinist princes and states. All benefices were to be restored to the condition in which they were on January 1, 1624, except those in the dominions of the Elector Palatinate, the Margrave of Baden, and the Duke of Württemberg, as to which the definitive period was fixed at 1618.⁷⁶

The Germanic Empire as finally constituted by this treaty, which is referred to in history and by writers on international law as the treaty of Westphalia, was composed of three hundred and fifty-five states, each claiming sovereignty, but of very unequal extent and power.⁷⁷ From the conclusion of this treaty the policy of European statesmen with reference to the maintenance of the balance of power took its rise. It has exerted a most potent influence on the diplomacy of Europe until very recent times. Ostensibly designed to avoid conflicts by preventing any nation from gaining a position of mastery, it has led to a multiplicity of combinations and counter combinations in which have been the seeds of numerous wars. The treaty of Westphalia did not bring an end to the war then raging between France and Spain, and the years following were far from peaceful in western Europe. The ambitions and fears of rulers gave rise to the doctrine of balance of power, rather than of the rights of people. It has

⁷⁶ Hoosack, *Law of Nations*, 221-5. Shiller, *30 Years War*, 330.

⁷⁷ Hoosack, *Law of Nations*, 226.

⁷⁸ Taylor § 70.

been defined as "a constitution subsisting between neighboring states more or less connected with one another, by virtue of which no one among them can injure the independence or essential rights of another, without meeting with effectual resistance on some side, and consequently exposing itself to danger." The scheme of maintaining a balance of power was not backed by any organization for its enforcement. Each nation remained sole judge of the occasion when it would throw its weight into the scale to aid the weaker power. Concert of action among the powers was not secured by any general supervising tribunal or congress, but depended on diplomacy and narrow views of interest in each particular controversy as it arose. It was from time to time undermined and countermined by secret diplomacy and alliances to overthrow it and gain mastery. Louis the XIV of France pursued a settled policy of aggression, and in the early years of his reign greatly increased and extended the power of France, but wars brought poverty to his subjects and exhaustion to the kingdom. Defeat and loss of all his great prestige embittered the closing years of his long reign. The treaties of Breda, 1667, of Nimwegen, 1678-1679, and of Ryswick, 1697, marked suspensions of hostilities, shifting of boundaries, abandonment of pretensions, rise of new combinations and abandonment of old ones, but no approach toward a general combination of all to preserve the peace and promote their mutual welfare.

The war of the Spanish succession, which raged from 1701 to 1713, was terminated by the peace of Utrecht. The war resulted from the conflicting ambitions of crowned heads, and the terms of the treaty which ended it indicate the issues which had been fought out. Its leading stipulations were that Philip V, grandson of Louis XIV of France, should retain the Spanish throne upon his renunciation of all right to the crown of France, that the dukes of Berry and Orleans should likewise renounce their claims to the throne of Spain, and that the two crowns should never be united on the same head. The ambition of the French king to combine the two kingdoms in one and thereby upset the balance of power had been defeated by an alliance including England, Holland, Austria and the

Empire, and Portugal. His allies were the elector of Bavaria, and the dukes of Modena and Savoy, with such aid as disorganized Spain could give him. Great Britain received from France an express recognition of the right of the Hanoverian succession to the British throne, consent to the expulsion of the pretender from French soil, and recognition of the sovereignty of Great Britain over Hudson's Bay and Straits, St. Kitts, Nova Scotia, and Newfoundland with the adjacent islands, France reserving however Cape Breton and the islands at the mouth of the St. Lawrence, with certain fishing rights on the Newfoundland coast; and from Spain the cession of Gibraltar and Minorca. Philip of Spain was required to cede to Charles of Austria his possessions in Italy, the Spanish Netherlands and the island of Sardinia. The island of Sicily was given to the duke of Savoy; Sardinia was assigned to the elector of Bavaria; Holland received Namur, Charleroi, Luxembourg, Ypres and Nieuport, but restored Lisle and its dependencies, and the king of Prussia exchanged Orange and his possessions in Franche-Comté for Upper Gelders.⁷⁹

By the peace of Nystadt, concluded August 30, 1721, Russia acquired from Sweden, Livonia, Esthonia, Ingermanland, part of Carelia, Riga, Rivel, Wiborg, and the island of Oesel; by the peace of Aix-la-Chapelle, October 18, 1748, the war of the Austrian succession was terminated and the territorial boundaries of the combatants settled; France, Great Britain and Holland were the parties and Spain, Austria, Genoa and Modena assented to it; and by the peace of Paris, February 10, 1763, the seven years war, which involved the American colonies in the broils of the European powers, was brought to an end. Great Britain, France, Spain and Portugal had fought for mastery in the western world and in the far east. In the same month, by the peace of Hubertsburg, Prussia, Austria and Saxony settled for the time their conflicting claims to European dominions. By the treaty of Paris, France gave up to Great Britain substantially all her claims of territory in

⁷⁹ Halleck, I, 335. Russell, *Hist. Mod. Eur.* ii, 195. Dumont *Corps Dipl. t. vi.* Taylor § 76.

America east of the Mississippi River, and to Granada, St. Vincent, Dominique, and Tobago, in the West Indies, receiving in return only Guadaloupe, Desidrade, Mariegalante, Martinique, Belleisle, and St. Lucia in the West Indies and Pondicherry and a district on the coast of India in the east.⁸⁰

By a series of treaties concluded in 1772, 1793 and 1795 Poland was divided among Prussia, Austria and Russia, and ceased its national existence. The partition of Poland by these three autocratic powers has been universally condemned by lovers of liberty in every country. It was a gross and palpable violation of the first principle of international law, which accords to each nation the right of existence. It violated the principle of the balance of power by a combination of three for the destruction of one. By a similar method all the small states might be absorbed by the great ones agreeing on a division of their territories.⁸¹

On September 3, 1783, for the first time in the history of the world, a treaty was signed by a power of Europe with an American state. Preliminary articles had been settled late in the preceding year, but the execution of the definitive treaty was delayed till that date. On the same day were also signed at Versailles the definitive treaties between Great Britain, France, and Spain. Great Britain acknowledged the independence of the United States, France recovered possessions in both the East and West Indies, and Spain gained Florida and Minorca.⁸² Prior to this time the European states had fought among themselves for possessions in the new world, and had disposed of countries far more valuable now than all their home possessions, as mastery shifted with the fortunes of war. In the great war which has just closed, this new nation, which then came into existence, has intervened in Europe, not for conquest or gain of any kind, but to bring peace and security to the world.

The French revolution and the rise of Napoleon threatened, not merely the overthrow of the balance of power in Europe,

⁸⁰ Taylor § 80.

⁸¹ Martens, *Recueil* &c. II, 89.

⁸² Martens, *Recueil* &c. III, 503.

but the overthrow of the doctrine of the divine right of kings to rule. With the slogan of "war to the palace but peace to the cottage" Napoleon drew to his support the liberal forces of Europe and recruited his armies in the countries he overran. Great Britain alone of all the great nations pursued a course of steady and persistent hostility to him until his final defeat at Waterloo. As a result of the wars the map of Europe had been greatly changed; old states had disappeared and new ones had come into existence. The claims of hereditary rulers had been ignored and new governments established. The victory was with the reactionaries, but the war had continued so long that mere restoration of the *status quo ante* did not satisfy the rulers. To reconstruct the map required a general agreement among the powers. After the abdication of Napoleon on April 11, 1814, and the conclusion of the first peace of Paris, the treaty then executed provided for a congress of plenipotentiaries of all the powers that had been engaged in the war to meet at Vienna. This Congress was attended by the monarchs of Russia, Austria, Prussia, Denmark, Bavaria and various smaller German states, and by Wellington, Castlereagh, Talleyrand, Nesselrode, Hardenberg, Metternich, and Stein. It was the greatest congress, both in the number of states represented and the prominence and ability of the men who attended it, that had ever been held. It resulted in a general treaty to which all were parties. Though its fundamental purpose was to restore the power of despots who had been deposed by the people, and maintain that of those who had been able to retain their power, it marked a great stride forward in the method of making treaties. The interests of all the nations were considered in and fixed by a congress in which all were represented. The fundamental fault in it was that the representation was of rulers, not of people. By the treaty the boundaries of France were restored to about the same condition as in 1792; Austria took back what Napoleon had wrested from her; Prussia regained substantially her former possessions; Ferdinand IV was reestablished on the throne of Naples with the two Sicilies; a new Germanic Confederation was formed; Genoa was united to Sardinia; Venice to

Austria; Norway to Sweden; Belgium and Luxembourg to Holland under the King of the Netherlands, and a part of Saxony was added to Prussia. The relative ranks of ambassadors and ministers was defined in order to remove the conflicts which had existed as to precedence among them.⁸³

The combination formed by Austria, Russia, Prussia and Bourbon France, under the style of the Holy Alliance, was for the avowed purpose, as expressed in a circular declaring their intentions, "to repel the maxim of rebellion, in whatever place and under whatever form it might show itself." It was signed by the sovereigns of the three first named countries without any ministerial counter signatures, with the words "*Au nom de la très Sainte et indivisible Tréinité*" prefixed.⁸⁴ Its fundamental purpose was to maintain the doctrine of the divine right of kings and repress the growing demand for popular government.

The Crimean war brought out the combination of the two Christian states of Great Britain and France with Mohammedan Turkey to resist the aggression of Christian Russia. The Congress of Paris of 1856 at which the terms of peace were settled was attended by ambassadors of the Sultan, the first of that power to appear in a congress of European powers, and of Great Britain, France, Austria, Russia and Sardinia. The consolidation of the Italian states under the king of Sardinia in 1861, the rise of Prussia at the expense of Denmark, Austria and France, followed by the consolidation of the German states and the assumption of the title of German Emperor by the king of Prussia at Versailles January 18, 1871, the Congress of Berlin following the treaty of San Stefano in 1878, which dealt with the boundaries and status of the Balkan States, all affected the balance of power in Europe, but, instead of bringing a general feeling of peace and security, were attended with ever-growing armaments and military and naval preparations for war. Efforts to equalize forces and balance powers at last culminated in the Triple Alliance formed by Germany, Austria and Italy, and the Triple Entente by Great

⁸³ Taylor, § 85-86. Klüber. Acten des Wiener Congresses VII, § 48.

⁸⁴ Manning, 82, 84. Taylor § 87.

Britain, France and Russia, and the great war just concluded. As a means of preserving peace the balance of power has been a most dismal and disastrous failure. It produced its logical fruit, great combinations and preparations for war, and then a war to test the relative strength of the combinations. Europe had made progress in the art of combination, but not in the art of promoting peace. Questions without number had been settled by wars and the treaties which terminated them, but the doctrine of absolute, ultimate sovereignty in each nation left Europe as an anarchistic community of nations, ready at all times for conflict with each other. The establishment of a police force to preserve the peace and guarantee the security of all would be futile so long as the doctrine of ultimate sovereignty and power to decide every question was asserted by each state and backed by all its military and naval strength. Abdication of this sovereignty by each and the transference of the ultimate power to settle international disputes to deliberative, judicial and executive agencies representing all the nations, not merely of Europe, but of the new world of America and the old world of Asia also, is manifestly the next step to be taken in the effort to bring peace to the earth.

Prior to the treaty of 1783, which recognized the independence of the United States, there had been no sovereign power on the western continent recognized as such by the nations of Europe. Diplomatic relations had not then been established with the Asiatic nations. European potentates claimed sovereignty over remote lands by right of discovery and prior occupancy, priority meaning over other Europeans. The rights of the aborigines were not deemed important. The Europeans are entitled to the credit of having brought the people of all parts of the earth into communication with each other, and planting colonies among the most savage tribes and in the waste places. About 1810, during the dominance of Napoleon in Spain, most of its American colonies revolted and maintained their independence thereafter. While Napoleon dominated the Iberian Peninsula in 1807, the royal family of Portugal moved to Brazil and maintained its court there, thus presenting the novel situation of a European kingdom ruled from

America. Brazil became independent in 1822 with Dom Pedro as its emperor. There are now twenty-one republics in the Western Hemisphere, all of which are parties to the Universal Postal Union. The general political situation from the time of the restoration of the Bourbons to power in France till 1848 was that the governments of Europe, Asia and Africa were monarchical, while those in America were republican. It is true that republican sentiment was growing and able at some times and places to make gains and limit arbitrary power, but autocracy was dominant in the concert of European powers.

To the United States is due the credit of bringing into the great family of nations the theretofore most exclusive kingdom of Japan, which now occupies such a commanding position in the far east. On June 22, 1855, a treaty of peace, amity and commerce with that country, which had been negotiated by Admiral Perry, was proclaimed by the President. Since then Japan may fairly be said to have been the most progressive nation on earth, to have exhibited the most wisdom in its willingness to learn from others, and in its capacity for adapting what it has learned from civilizations so different from its own to its own needs. China too has absorbed more of the spirit of western civilization, and has overthrown its paternal despotism and undertaken the organization of a republic. With the greatly increased facilities for travel and transportation there are now no far away countries. By means of cables and wireless telegraphs instantaneous intercommunication can be had between any two governments on earth. It is not alone the ships of Europe that visit the ports of America and Asia, but the ships of America and Asia visit the ports of Europe. The family of nations includes those on all continents, and no congress of representatives is competent to legislate for the seas unless America and Asia, as well as Europe, are represented.

Since these great changes have come about in the general world situation, congresses of a very different kind from those we have just been considering have been held. Those we have been considering have dealt almost exclusively with

questions of sovereignty, boundaries, alliances and political combinations. We shall take up hereafter a much more hopeful line of diplomatic work, dealing only with common interests and for the common good. The progress that has been made in this work in the last half century is most remarkable, but it also brings forcibly to view the imperative needs of more efficient and more just methods of dealing with matters of general concern to all the nations.

Before proceeding to a consideration of these international conventions there is another line of political interest to be considered. America, though now peopled mainly by Europeans and descendants of Europeans, has always had its own ideals of social organization and government. These have been the result of a combination of influences, some of which have not affected Europeans. The free life of the native Indians and the environments of the early settlers taught them self-reliance and inspired them with a love of liberty. Separation from Europeans and infrequent communication with them allowed students of history to freely compare the ideals of ancient Greece and Rome with those of the rulers of modern Europe. These ideals produced the republics, and when they were menaced the Monroe doctrine.

THE MONROE DOCTRINE

In pursuance of its purpose "to put an end to the system of representative governments" in Europe, the Holy Alliance crushed the Neapolitan revolution of 1820, and France at its behest invaded Spain in 1823 to overthrow the constitution of the Cortes and restore the autocracy of Ferdinand VII. In the summer of that year the Alliance notified Great Britain that, as soon as France should complete the overthrow of the revolutionary government of Spain, a congress would be called for the purpose of terminating the revolutionary governments of South America. These governments had then been recognized by the United States, but not by Great Britain or other European governments. In England, Castlereagh, who was regarded as in sympathy with the Holy Alliance, yielded the direction of foreign affairs to Canning, an advo-

cate of the right of self-government and opponent of the invasion of Spain by France. English merchants were deeply interested in the trade with South America, and their interests would be seriously menaced by armed intervention by the other powers. Canning therefore suggested to the American Minister at London that a joint declaration against the proposed intervention be made by Great Britain and the United States. The correspondence on the subject was transmitted from London and submitted to President Monroe, who called on Jefferson, then in retirement, for his advice in the matter. Jefferson's views as to the importance of the subject and the policy which should be adopted appear from his letter of October 24, 1823, in which he said: "The question presented by the letters you have sent me, is the most momentous which has ever been offered to my contemplation since that of independence. That made us a nation; this sets our compass, and points the course which we are to steer through the ocean of time opening on us. And never could we embark on it under circumstances more auspicious. Our first and fundamental maxim should be, never to entangle ourselves in the broils of Europe; our second, never to suffer Europe to intermeddle with cis-Atlantic affairs. America, North and South, has a set of interests distinct from those of Europe, and peculiarly her own. She should, therefore, have a system of her own, separate and apart from that of Europe. While the last is laboring to become the domicile of despotism, our endeavor should surely be, to make our hemisphere that of freedom. One nation, most of all, could disturb us in this pursuit; she now offers to lead, aid, and accompany us in it. By acceding to her proposition, we detach her from the band of despots, bring her mighty weight into the scale of free government, and emancipate a continent at one stroke, which might otherwise linger long in doubt and difficulty. Great Britain is the nation that can do us the most harm of any one, or all, on earth; and with her on our side we need not fear the whole world. With her, then, we should most sedulously cherish a cordial friendship; and nothing would tend more to knit our affections, than to be fighting once more, side by side, in the

same cause. Not that I would purchase even her amity at the price of taking part in her wars. But the war in which the present proposition might engage us, should that be its consequence, is not her war, but ours. Its object is to introduce and establish the American system, of keeping out of our land all foreign powers, of never permitting those of Europe to intermeddle with the affairs of our nations. It is to maintain our own principle, not to depart from it. And if, to facilitate this, we can effect a division in the body of European powers, and draw over to our own side its most powerful member, surely we should do it. But I am clearly of Mr. Canning's opinion, that it will prevent instead of provoking war. With Great Britain withdrawn from their scale, and shifted into that of our two continents, all Europe combined would not undertake such a war. For how would they propose to get at either enemy without superior fleets? Nor is the occasion to be slighted which this proposition offers, of declaring our protest against the atrocious violations of the rights of nations, by the interference of any one in the internal affairs of another, so flagitiously begun by Bonaparte, and now continued by the equally lawless Alliance, calling itself Holy."⁸⁵

President Monroe chose to deal with the matter in the form of a message to Congress delivered December 2, 1823, in which he said:

"At the proposal of the Russian Imperial Government, made through the minister of the Emperor residing here, a full power and instructions have been transmitted to the minister of the United States at St. Petersburg to arrange, by amicable negotiation, the respective rights and interests of the two nations on the north-west coast of this continent. A similar proposal has been made by his Imperial Majesty to the Government of Great Britain, which has likewise been acceded to. The Government of the United States has been desirous, by this friendly proceeding, of manifesting the great value which they have invariably attached to the friendship of the Emperor, and their solicitude to cultivate the best understanding

⁸⁵ Jefferson's Works, IV, 381.

with his Government. In the discussions to which this interest has given rise and in the arrangements by which they may terminate, the occasion has been adjudged proper for asserting, as a principle in which the rights and interests of the United States are involved, that the American continents, by the free and independent condition which they have assumed and maintain, are henceforth not to be considered as subjects for future colonization by any European Powers.

"It was stated at the commencement of the last session that a great effort was then making in Spain and Portugal to improve the condition of the people of those countries, and that it appears to be conducted with extraordinary moderation. It need scarcely be remarked that the result has been so far very different from what was then anticipated. Of events in that quarter of the globe, with which we have so much intercourse, and from which we derive our origin, we have always been anxious and interested spectators. The citizens of the United States cherish sentiments, the most friendly, in favour of the liberty and happiness of their fellow men on that side of the Atlantic. In the wars of the European Powers in matters relating to themselves, we have never taken any part, nor does it comport with our policy to do so. It is only when our rights are invaded, or seriously menaced, that we resent injuries or make preparation for our defense. With the movements in this hemisphere we are of necessity more immediately concerned, and by causes which must be obvious to all enlightened and impartial observers.

"The political system of the Allied Powers is essentially different in this respect from that of America. This difference proceeds from that which exists in their respective Governments. And to the defense of our own, which has been achieved by the loss of so much blood and treasure, and matured by the wisdom of their most enlightened citizens and under which we have enjoyed unexampled felicity, this whole nation is devoted. We owe it, therefore, to candour and to the amicable relations existing between the United States and those Powers to declare that we should consider any attempt on their part to extend their system to any portion of this

hemisphere as dangerous to our peace and safety. With the existing colonies or dependencies of any European Power we have not interfered, and shall not interfere. But with the Governments who have declared their independence and maintained it, and whose independence we have, on great consideration and on just principles, acknowledged, we could not view any interposition for the purpose of oppressing them, or controlling in any manner their destiny by any European Power, in any other light than as the manifestation of an unfriendly disposition towards the United States. In the war between those new Governments and Spain, we declared our neutrality at the time of their recognition, and to this we have adhered, and shall continue to adhere, provided no change shall occur which in the judgment of the competent authorities of this Government shall make a corresponding change on the part of the United States indispensable to their security.

“The late events in Spain and Portugal show that Europe is still unsettled. Of this important fact no stronger proof can be adduced than that the Allied Powers should have thought it proper, on a principle satisfactory to themselves, to have interposed by force in the internal concerns of Spain. To what extent such interposition may be carried on the same principle is a question to which all independent Powers whose Governments differ from them are interested, even those most remote, and surely none more so than the United States. Our policy in regard to Europe which was adopted at an early stage of the wars which have so long agitated that quarter of the globe, nevertheless remains the same, which is not to interfere in the internal concerns of any other Powers; to consider the Government *de facto* as the legitimate Government for us; to cultivate friendly relations with it, and to preserve those relations by a frank, firm, and manly policy; meeting in all instances the just claims of every Power, submitting to injuries from none. But in regard to these continents, circumstances are eminently and conspicuously different. It is impossible that the Allied Powers should extend their political system to any portion of either continent without endangering our peace and happiness; nor can anyone believe that our

Southern brethren, if left to themselves, would adopt it of their own accord. It is equally impossible, therefore, that we should behold such interposition in any form with indifference. If we look to the comparative strength and resources of Spain and those new Governments, and their distance from each other, it must be obvious that she can never subdue them. It is still the true policy of the United States to leave the parties to themselves, in the hope that other Powers will pursue the same course."⁸⁶

The wisdom of this policy seems to be fully established by subsequent history, for it has not involved the United States in any war, and, with a single exception, no European nation has interfered forcibly in the internal affairs of the American republics. This exception occurred during the Civil War in the United States. Napoleon III took advantage of the situation in Mexico arising from the confiscation of the church property by Juarez, his suspension of the payment of foreign debts, and the demands of France, Great Britain, and Spain, as principal creditors for payment, and of the inability of the United States at that time to interfere with his operations, to invade Mexico and establish Maximilian of Austria as emperor. France alone furnished the troops for the enterprise. The United States protested at the time of the invasion, refused to recognize Maximilian, and after the termination of the Civil War demanded that the French troops be withdrawn, and proceeded to move troops toward the Mexican border. France yielded and withdrew the troops, and Maximilian was speedily dethroned, court-martialed and shot.⁸⁷

The doctrine was again asserted very vigorously by President Cleveland in 1895 in relation to the dispute between Great Britain and Venezuela over the boundary line between British Guiana and Venezuela. As the result of his stand denying the right of Great Britain to extend its possessions by force, the matter was submitted to arbitration and amicably settled.⁸⁸

⁸⁶ Moore Int. Law Dig. 6, 401. Messages & Papers of the Presidents XI-787.

⁸⁷ Wilson, History of the American People, V. 42.

⁸⁸ Wilson, History of the American People, V. 245.

The annexation of Hawaii in 1898, though a departure from a strictly continental policy, can hardly be said to constitute a breach of the traditional policy of the government. The islands are nearer to America than to Asia. The assumption • of possession of the Philippine Islands is a clear departure from the continental policy, if such possession is to be retained permanently.

Although the United States entered into the European war and fought on the continent of Europe in combination with the troops of the western nations, the cause of its entry into the war was the clear and repeated violation of its rights as a neutral nation. It happened to be the fact that these nations are all either republics or constitutional monarchies in which accountable ministers direct the executive departments of the governments and elective representative bodies exercise the legislative powers. The Central Powers and Turkey were dominated by military combinations under the command of hereditary rulers. If the purpose had been merely to aid the allied nations, the United States would still have been fighting in support of the ideals of Jefferson and Monroe, though on the soil of Europe. The rulers of all the powers that united to form the so-called Holy Alliance have been deposed and have left to their people the task of constructing new governments.

At the time President Monroe announced the policy which has since been steadily followed by the United States the conditions were very different from those with which the nation is now confronted. There was but one firmly established republic in Europe, Switzerland. Of the other governments that of Great Britain was the most democratic, but very far from being the popular government it now is. Austria, Russia, Prussia, and France under Bourbon rule, were united in the Holy Alliance for the avowed purpose of crushing all popular uprisings in Europe and ruling it by military force. When this unholy alliance proposed to restore the Spanish despotism in South America and asked the aid of Great Britain in the undertaking it refused and placed itself in opposition to the scheme. Jefferson favored the acceptance of the British

plan of joint action by the United States and Great Britain, by which the latter power would be allied to the republics of America in opposition to the monarchies of Europe, but Monroe preferred to take a strictly American stand, relying on the assistance of Great Britain in case the Holy Alliance should then undertake to intervene in South America. The transportation of troops from Europe to America was then a far more difficult task than it now is. Communication could only be had across the ocean by ships. The telegraph had not yet been invented. Great Britain, then as now, dominated the ocean. With its aid there was no doubt of the ability of America to defend itself. On the other hand it would have been nothing short of madness for the United States even in alliance with Great Britain, the South American States, and Switzerland, to have undertaken to wage war for democracy on continental Europe.

The great war just ended has witnessed the invasion of Europe by the democracies of America, Asia, Australia, and Africa, and the utter destruction of all the remaining dynasties that had formed the Holy Alliance. The United States transported an army of more than two million men across the Atlantic in less than a year, with all its needed supplies and equipment, with the aid of British shipping. It has also furnished food to all the allied nations. It is now confronted with the problem of making an enduring peace by which it will be made secure against the recurrence of such conditions as drew it into this great struggle. There is no powerful military despotism left in Europe, Asia, or Africa, but there is a vast territory in central and eastern Europe and northern Asia throughout which the people are striving to establish free institutions. They are now divided into many discordant factions, with conditions throughout Germany and much of Russia very similar to those prevailing in France after the revolution. Western Europe, which had established governments accountable to the people, comes out of the war victorious, but with many frightful scars from it. Without the aid the Allies received from America in supplies and men it appears reasonably certain that the Central Powers would have succeeded in extending their military despotisms in all directions. The

spirit of the Monroe doctrine was invoked when the United States entered the war. It must now be applied to preserve the fruits of a victory won at such fearful cost, especially to the popular governments of Europe. This spirit and the practical wisdom of Monroe and Jefferson clearly call for a larger application of the doctrine which was announced in behalf of free government in America. Military despotism must not be allowed to come back in any part of the world to work havoc at the command of any ruthless ruler. The allied nations fought for the avowed purpose of making the world safe for democracy, and there can be no doubt that the announcement of this purpose contributed materially to their success. At the conclusion of the war the victorious nations which sit at the peace table to arrange the terms of peace include the republics of the United States, France, Portugal, Brazil, Cuba and China, and the constitutional monarchies of Great Britain, Belgium, Italy, and Japan, whose governments are almost as popular in character as those of the republics. These nations, and the smaller ones associated with them, entered into a great league in fact, if not in name, by which they overthrew the governments which brought on the war. They have now formed a league to maintain the fruits of their victory. The combinations of nations forming this league is vastly more powerful than the whole force of America with Great Britain added in the time of Monroe. This combination is not now confronted by any great monarchical combination. Its difficulties are merely those of applying the fundamental principles of freedom and representative government to all the nations of the world. Manifestly the first danger to be provided against is that of the reorganization of a great military machine like that of Germany at the commencement of the war. This can only be done through a supervising force established by the league to prohibit great military combinations. Very clearly this force must be representative of and accountable to the free people who establish it. It must itself be subject to law and to the popular governments it represents. It must act in strict accordance with the benign principles of Monroe and Jefferson and shield the weak against the aggressions of the strong nations. It is still necessary, as a matter

both of right and of policy, to allow the people of each country to regulate their domestic affairs in accordance with their own views. The nations must be free, but this freedom must not extend even to preparation for aggression on their neighbors. Heretofore international law has been utterly impotent as a means of preserving the peace of the world. It is for the League of Nations to make its rules just, and to see that they are enforced against any member of the family of nations that would attempt to do what the Holy Alliance wished to do in the days of Monroe. It is not the Monroe doctrine that stands in the way of a successful league of nations, but the lack of affirmative principles in international law concerning the relations of nations. International law has never definitely sanctioned aggressive war, but it has interposed no obstacle to it. It has accorded to each nation, no matter how organized, the right to determine for itself for what cause and when it would go to war. So long as this doctrine prevails, there can be no assurance of peace. International law, to be worthy the name, must be law which binds nations in their corporate capacity. Order is heaven's first law, and order does not exist on earth when nations are permitted to and do go to war. No matter what question of international relation may arise, there may be, there should be, a rule of law to settle it. Such rules, in order to be accepted and enforced, must commend themselves to the general sense of right of the people of all nations. In order to be sure of accordance with this general opinion it is manifestly necessary that a body representing all the free nations formulate them. International law has never said to a sovereign nation, thou shalt not kill, thou shalt not rob, thou shalt not covet thy neighbor's goods, but only when you do these awful crimes you shall, if you conveniently can, do them under a few restrictions and limitations designed to mitigate their barbarities. It must be made to enforce on nations the fundamental principles underlying all municipal codes dealing with crime. It must deny to each and every nation, as an attribute of its sovereignty, the right to go to war. It must afford a practical means for the enforcement of the rights of a nation, without referring the remedy to the primitive law of the savage, self-help.

CHAPTER III

GENERAL WELFARE CONVENTIONS

Though much has been accomplished in the improvement of international relations by separate treaties affecting only two or a very few nations, these have been found inadequate to fill the requirements of modern commercial and social intercourse. The ever-growing web of complicated relations involving the people of many nations, the increasing dependence of densely peopled manufacturing states on distant lands for food supplies, and of the agricultural states on them for a market for their products and supplies of clothing, implements and other manufactured articles, render more general agreements an imperative necessity. It has been perceived that the highest welfare of each nation is dependent in very large measure on friendship and commerce with many others. The full measure of benefit from commercial intercourse can only be attained under conditions of permanent peace. Most of the old treaties were made either to combine for war or to fix the terms of its termination. Treaties of peace have disposed of the particular controversies involved in the wars which they terminated, and many of them have been observed and carried out in good faith by both parties for long periods, but changing conditions have presented new questions and new combinations out of which leaders imbued with ancient hatred or ambition have been able to extract pretexts for war. It is now apparent that peace must be secured by better and more general guaranties than treaties between two hostile nations or combinations of hostile nations.

Of late many questions of general concern to all nations have been taken up by diplomatic conferences at which many nations have been represented. A very prominent purpose has been to bring about international agreements for the mitigation of the horrors of war, and for reducing the numbers of

wars by arbitration of differences and by conciliation. Other general international interests, however, have been deemed of sufficient importance to be considered in general conferences and as subjects of treaties to which the adherence of all the nations of the earth has been invited. One of the earliest and most important of these conferences was held at Geneva for the purpose of obtaining a general agreement for the protection of the sick and wounded in war and of those employed in caring for them. The convention adopted and signed at the conference met with almost universal approval and it remained in force until superseded by the Geneva Convention of 1906, which will be found in full in its order. As this was the first of the great general welfare conventions to become generally adopted by the nations it is given here in full.

GENEVA CONVENTION, 1864 .

In 1864 a Convention of representatives of twelve European Powers was held at Geneva, Switzerland, to consider the amelioration of the condition of the wounded in time of war, at which a convention was agreed upon and signed on August 22, 1864, providing as follows:

Article I. Ambulances and Military hospitals shall be acknowledged to be neuter, and, as such, shall be protected and respected by belligerents so long as any sick or wounded may be therein.

Such neutrality shall cease if the ambulances or hospitals should be held by a military force.

Art. II. Persons employed in Hospitals and Ambulances, comprising the staff for superintendence, medical service, administration, transport of wounded, as well as chaplains, shall participate in the benefit of neutrality, whilst so employed, and so long as there remain any wounded to bring in or to succor.

Art. III. The persons designated in the preceding article may, even after occupation by the enemy, continue to fulfill their duties in the hospital or ambulance, which they serve, or may withdraw in order to rejoin the corps to which they belong.

Under such circumstances, when these persons shall cease from their functions, they shall be delivered by the occupying army to the outposts of the enemy.

Art. IV. As the equipment of military hospitals remains subject to the

laws of war, persons attached to such hospitals cannot, in withdrawing, carry away any articles but such as are their private property.

Under the same circumstances an ambulance shall, on the contrary, retain its equipment.

Art. V. Inhabitants of the country who may bring help to the wounded shall be respected, and shall remain free. The generals of the belligerent Powers shall make it their care to inform the inhabitants of the appeal addressed to their humanity, and of the neutrality which will be the consequence of it.

Any wounded man entertained and taken care of in a house shall be considered as a protection thereto. Any inhabitant who shall have entertained wounded men in his house shall be exempt from the quartering of troops, as well as from a part of the contributions of war which may be imposed.

Art. VI. Wounded or sick soldiers shall be entertained and taken care of, to whatever nation they may belong.

Commanders-in-chief shall have the power to deliver immediately to the outposts of the enemy soldiers who have been wounded in an engagement when circumstances permit this to be done, and with the consent of both parties.

Those who are recognized, after their wounds are healed, as incapable of serving, shall be sent back to their country.

The others may also be sent back, on condition of not again bearing arms during the continuance of the war.

Evacuations, together with the persons under whose directions they take place, shall be protected by an absolute neutrality.

Art. VII. A distinctive and uniform flag shall be adopted for hospitals, ambulances and evacuations. It must, on every occasion, be accompanied by the national flag. An arm-badge (brassard) shall also be allowed for individuals neutralized, but the delivery thereof shall be left to military authority.

The flag and the arm-badge shall bear a red cross on a white ground.

Art. VIII. The details of execution of the present convention shall be regulated by the commanders in chief of belligerent armies, according to the instructions of their respective governments, and in conformity with the general principles laid down in this convention.

Art. IX. The high contracting Powers have agreed to communicate the present convention to those Governments which have not found it convenient to send plenipotentiaries to the International Conference at Geneva, with an invitation to accede thereto; the protocol is for that purpose left open.

Art. X. The present convention shall be ratified, and the ratifications shall be exchanged at Berne in four months, or sooner, if possible.¹

¹ Senate Documents, 2d Session, 61 Congress, 48-1903.

Though not represented at the convention which formulated it, the United States adopted the convention and it was duly proclaimed July 26, 1882. The adhesion to it by other powers was duly communicated as follows: Sweden and Norway, Greece, Great Britain, Mecklenburg-Schwerin, Turkey, Wurttemberg, Hesse, Bavaria, Austria, Portugal, Saxony, Russia, Persia, Roumania, Salvador, Montenegro, Servia, Bolivia, Chile, Argentine Republic, Peru, Bulgaria, Japan, Kongo Free State, Venezuela, Uruguay, Korea, Guatemala, China, Mexico, Colombia, Brazil, Paraguay, Cuba, Dominican Republic, Hayti, Panama and Ecuador.

On October 22, 1868, another convention was signed at Geneva, by representatives of fifteen European Powers, including North Germany, which was also adhered to and promulgated by the United States at the same time as the first one. It recites the purpose of the Powers "to extent to armies on the sea the advantages of the Convention concluded at Geneva the 22 of August, 1864," and provides:

Article I. The persons designated in Article II of the Convention shall, after the occupation by the enemy, continue to fulfill their duties, according to their wants, to the sick and wounded in the ambulance or the hospital which they serve. When they request to withdraw, the commander of the occupying troops shall fix the time of departure, which he shall only be allowed to delay for a short time in case of military necessity.

Art. II. Arrangements will have to be made by the belligerent powers to ensure to the neutralized persons, fallen into the hands of the army of the enemy, the entire enjoyment of his salary.

Art. III. Under the conditions provided for in Articles I and IV of the Convention, the name "ambulance" applies to field hospitals and other temporary establishments, which follow the troops on the field of battle to receive the sick and wounded.

Art. IV. In conformity with the spirit of Article V of the Convention, and to the reservations contained in the protocol of 1864, it is explained that for the appointment of the charges relative to the quartering of troops, and of the contributions of war, account only shall be taken in an equitable manner of the charitable zeal displayed by the inhabitants.

Art. V. In addition to Article VI of the Convention, it is stipulated that, with the reservation of officers whose detention might be important to the fate of arms and within the limits fixed by the second paragraph of that article, the wounded fallen into the hands of the enemy shall be

sent back to their country, after they are cured, or sooner if possible, on condition, nevertheless, of not again bearing arms during the continuance of the war.

Art. VI. The boats which, at their own risk and peril, during and after an engagement pick up the shipwrecked or wounded, or which having picked them up, convey them on board a neutral or hospital ship, shall enjoy, until the accomplishment of their mission, the character of neutrality, as far as the circumstances of the engagement and the position of the ships engaged will permit.

The appreciation of these circumstances is entrusted to the humanity of all the combatants. The wrecked and wounded thus picked up and saved must not serve again during the continuance of the war.

Art. VII. The religious, medical and hospital staff of any captured vessel are declared neutral, and, on leaving the ship, may remove the articles and surgical instruments which are their private property.

Art. VIII. The staff designated in the preceding article must continue to fulfill their functions in the captured ship, assisting in the removal of the wounded made by the victorious party; they will then be at liberty to return to their country, in conformity with the second paragraph of the first additional article.

The stipulations of the second additional article are applicable to the pay and allowance of the staff.

Art. IX. The military hospital ships remain under martial law in all that concerns their stores; they become the property of the captor, but the latter must not divert them from their special appropriation during the continuance of the war.

The vessels not equipped for fighting, which, during peace, the government shall have officially declared to be intended to serve as floating hospital ships, shall, however, enjoy during the war complete neutrality, both as regards stores, and also as regards their staff, provided their equipment is exclusively appropriated to the special service on which they are employed.

Art. X. Any merchantman, to whatever nation she may belong, charged exclusively with removal of sick and wounded, is protected by neutrality, but the mere fact, noted on the ship's books, of the vessel having been visited by an enemy's cruiser, renders the sick and wounded incapable of serving during the continuance of the war. The cruiser shall even have the right of putting on board an officer in order to accompany the convoy, and thus verify the good faith of the operation.

If the merchant ship also carries a cargo, her neutrality will still protect it, provided that such cargo is not of a nature to be confiscated by the belligerents.

The belligerents retain the right to interdict neutralized vessels from all communication, and from any course which they may deem prejudicial

to the secrecy of their operations. In urgent cases special conventions may be entered into between commanders-in-chief, in order to neutralize temporarily and in a special manner the vessels intended for the removal of the sick and wounded.

Art. XI. Wounded or sick sailors and soldiers, when embarked, to whatever nation they may belong, shall be protected and taken care of by their captors.

Their return to their own country is subject to the provisions of Article VI of the Convention, and of the additional Article V.

Art. XII. The distinctive flag to be used with the national flag, in order to indicate any vessel or boat which may claim the benefits of neutrality, in virtue of the principles of this Convention is a white flag with a red cross. The belligerents may exercise in this respect any mode of verification which they may deem necessary.

Military hospital ships shall be distinguished by being painted white outside with green strake.

Art. XIII. The hospital ships which are equipped at the expense of the aid societies, recognized by the governments signing this Convention, and which are furnished with a commission emanating from the sovereign, who shall have given express authority for their being fitted out, and with a certificate from the proper naval authority that they have been placed under his control during their fitting out and on their final departure, and that they were then appropriated solely for the purpose of their mission, shall be considered neutral, as well as the whole of their staff. They shall be recognized and protected by the belligerents.

They shall make themselves known by hoisting, together with their national flag, the white flag with a red cross. The distinctive mark of their staff, while performing their duties, shall be an armlet of the same colors. The outer painting of these hospital ships shall be white, with red strake.

These ships shall bear aid and assistance to the wounded and wrecked belligerents, without distinction of nationality.

They must take care not to interfere in any way with the movements of the combatants. During and after the battle they must do their duty at their own risk and peril.

The belligerents shall have the right of controlling and visiting them; they will be at liberty to refuse their assistance, to order them to depart, and to detain them if the exigencies of the case require such a step.

The wounded and wrecked picked up by these ships cannot be reclaimed by either of the combatants, and they will be required not to serve during the continuance of the war.

Art. XIV. In naval wars any strong presumption that either belligerent takes advantage of the benefits of neutrality, with any other view than the interest of the sick and wounded, gives the other belligerent, until

proof to the contrary, the right of suspending the Convention, as regards such belligerent.

Should this presumption become a certainty, notice may be given to such belligerent that the Convention is suspended with regard to him during the whole continuance of the war.

Art. XV. The present act shall be drawn up in a single original copy, which shall be deposited in the Archives of the Swiss Confederation.

An authentic copy of this Act shall be delivered, with an invitation to adhere to it, to each of the signatory Powers of the Convention of the 22d of August, 1864, as well as to those that have successively acceded to it.²

The metric system of weights and measures was first proposed in the French National Assembly in March, 1791, and was definitely adopted in 1799, but it was not given its final form until 1840. It is a decimal system based on a meter as the fundamental unit of measurement. This unit of length is one ten-millionth part of the earth's meridian quadrant through Paris. All other measurements of distance are expressed in decimal multiples or fractions of the meter. The unit measure of capacity is the liter which is a cube of one-tenth of a meter. The unit of weight is the gramme which is one-thousandth of a liter of water at the temperature of 4° C. In this manner the whole system of weights and measures is based on the meter, which is established from the quadrant of the earth. The standards actually in use are very close approximations to those above indicated. All quantities and measurements being expressed in a decimal system of notation, the metric system has very naturally become the one used in all scientific computations. It is also the system in general use in trade in continental Europe and in South America. While the size of the earth affords a permanent standard of measurement, it is one that can only be used by men having sufficient scientific knowledge and adequate facilities for ascertaining what it is. For the use of the multitude definite, comprehensible and accessible standards are necessary. In order that such standards should be accepted in all countries an international agreement was necessary and a conference of plenipotentiaries of the leading countries to agree on a convention on the subject was

² Senate Documents, 2d Session, 61 Congress, 48-1907.

held at Paris in 1875. The following is the text of the convention and attached regulations :

INTERNATIONAL BUREAU OF WEIGHTS AND MEASURES

Article 1. The high contracting parties engage to establish and maintain, at their common expense, a scientific and permanent international bureau of weights and measures, the location of which shall be at Paris.

Art. 2. The French Government shall take all the necessary measures to facilitate the purchase, or, if expedient, the construction, of a building which shall be especially devoted to this purpose, subject to the conditions stated in the regulations which are subjoined to this convention.

Art. 3. The operation of the international bureau shall be under the exclusive direction and supervision of an international committee of weights and measures, which latter shall be under the control of a general conference for weights and measures, to be composed of delegates of all the contracting governments.

Art. 4. The general conference for weights and measures shall be presided over by the president for the time being of the Paris Academy of Science.

Art. 5. The organization of the bureau, as well as the formation and the powers of the international committee, and of the general conference for weights and measures, are established by the regulations subjoined to this convention.

Art. 6. The international bureau of weights and measures shall be charged with the following duties :

1st. All comparisons and verifications of the new prototypes of the meter and kilogram.

2d. The custody of the international prototypes.

3rd. The periodical comparison of the national standards with the international prototypes and with their test copies, as well as comparison of the standard thermometers.

4th. The comparison of the prototypes with the fundamental standards of the non-metrical weights and measures used in different countries for scientific purposes.

5th. The sealing and comparison of geodesic measuring-bars.

6th. The comparison of standards and scales of precision, the verification of which may be requested by governments or by scientific societies, or even by constructors or men of science.

Art. 7. The persons composing the bureau shall be a director, two assistants, and the necessary number of employ  s. When the comparisons of the new prototypes shall have been finished, and when these prototypes shall have been distributed among the different states, the number of persons composing the bureau shall be reduced so far as may be deemed expedient.

The governments of the high contracting parties will be informed by the international committee of the appointment of the persons composing this bureau.

Art. 8. The international prototypes of the meter and of the kilogram, together with the test copies of the same, shall be deposited in the bureau, and access to them shall be allowed to the international committee only.

Art. 9. The entire expense of the construction and outfit of the international bureau of weights and measures, together with the annual cost of its maintenance and the expenses of the committee, shall be defrayed by contributions from the contracting states, the amount of which shall be computed in proportion to the actual population of each.

Art. 10. The amounts representing the contributions of each of the contracting states shall be paid at the beginning of each year, through the ministry of foreign affairs of France, into the *Caisse de dépôts et consignations* at Paris, whence they may be drawn as occasion may require, upon the order of the director of the bureau.

Art. 11. Those governments which may take advantage of the privilege, open to every state, of acceding to this convention, shall be required to pay a contribution, the amount of which shall be fixed by the committee on the basis established in article 9, and which shall be devoted to the improvement of the scientific apparatus of the bureau.

Art. 12. The high contracting parties reserve to themselves the power of introducing into the present convention, by common consent, any modifications the propriety of which may have been shown by experience.

Art. 13. At the expiration of twelve years this convention may be abrogated by any one of the high contracting parties, so far as it is concerned.

Any government which may avail itself of the right of terminating this convention, so far as it is concerned, shall be required to give notice of its intentions one year in advance, and by so doing shall renounce all rights of joint ownership in the international prototypes and in the bureau.

Art. 14. This convention shall be ratified according to the constitutional laws of each state, and the ratifications shall be exchanged in Paris within six months, or sooner, if possible.

It shall take effect on the first day of January, 1876.

In testimony whereof the respective plenipotentiaries have attached their signatures and have hereunto affixed their seals of arms.

Done at Paris, May 20, 1875.³

REGULATIONS

Article 1. The international bureau of weights and measures shall be established in a special building, possessing all the necessary safeguards of stillness and stability.

³ Senate Documents, 2d Session 61st Congress, 48, 1924 to 1935.

It shall comprise, in addition to the vault, which shall be devoted to the safe-keeping of the prototypes, rooms for mounting the comparators and balances; a laboratory, a library, a room for the archives, work-rooms for the employés, and lodgings for the watchmen and attendants.

Art. 2. It shall be the duty of the international committee to acquire and fit up the aforesaid building and to set in operation the work for which it was designed.

In case of the committee's inability to obtain a suitable building, one shall be built under its directions and in accordance with its plans.

Art. 3. The French Government shall, at the request of the international committee, take the necessary measures to cause the bureau to be recognized as an establishment of public utility.

Art. 4. The international committee shall cause the necessary instruments to be constructed, such as comparators of the standards of line and end measures, apparatus for the determination of absolute dilations, balances for weighing in air and in vacuo, comparators for geodetic measuring-bars, &c.

Art. 5. The entire expense incurred in the purchase or construction of the building, and in the purchase and placing of the instruments and apparatus, shall not exceed 400,000 francs.

Art. 6. The estimate of annual expenditures is as follows:

(a) Salary of the director.....	15,000 fr.
" of two adjuncts, at 3,000 fr. each.....	12,000
" of four assistants, at 3,000 fr. each.....	12,000
Pay of door-keeper, (mechanic).....	3,000
Wages of two office-boys, at 1,500 fr. each.....	3,000
	<hr/>
Total for salaries.....	45,000
(b) Compensation of men of science and artists who, by direction of the committee, may be employed to perform special duties, keeping the building in proper order, purchase and repair of apparatus, fuel, light, and office-expenses	24,000
(c) Compensation of the secretary of the international committee of weights and measures.....	6,000
	<hr/>
Total	75,000

The annual budget of the bureau may be modified by the international committee as necessity may require at the suggestion of the director, but it shall in no case exceed the sum of 100,000 francs.

The contracting governments shall be notified of any modifications that the committee may think proper to make within these limits, in the annual budget fixed by the present regulations.

The committee may authorize the director, at his request, to make transfers from one subdivision of the allotted budget to another.

B. For the period subsequent to the distribution of the prototypes:

(a) Salary of the director.....	15,000 fr.
" of one adjunct.....	6,000
Pay of a door-keeper, (mechanic).....	3,000
Wages of an office-boy.....	1,500
	<hr/>
(b) Office-expenses	18,500
(c) Compensation of secretary, international committee.....	6,000
	<hr/>
Total	50,000

Art. 7. The general conference mentioned in article 3 of the convention shall be at Paris, upon the summons of the international committee, at least once every six years.

It shall be its duty to discuss and initiate measures necessary for the dissemination and improvement of the metrical system, and to pass upon such fundamental metrological determinations as may have been made during the time when it was not in session. It shall receive the report of the international committee concerning the work that has been accomplished, and shall replace one half of the international committee by secret ballot.

The voting in the general conference shall be by states; each state shall be entitled to one vote.

Each of the members of the international committee shall be entitled to a seat at the meetings of the conference. They may at the same time be delegates of their governments.

Art. 8. The international committee mentioned in article 3 of the convention shall be composed of fourteen members, who shall belong to different states.

It shall consist, at first, of the twelve members of the former permanent committee of the international commission of 1872, and of the two delegates, who, at the time of the appointment of that permanent committee, received the largest number of votes next to the members who were elected.

At the time of the renewal of one-half of the international committee, the retiring members shall be, first, those who, in cases of vacancy, may have been elected provisionally during the interval occurring between two sessions of the conference. The others shall be designated by lot.

The retiring members shall be re-eligible.

Art. 9. The international committee shall direct the work connected with the verification of the new prototypes, and, in general, all the metrological labors, as the high contracting parties may decide to have per-

formed at the common expense. It shall, moreover, exercise supervision over the safe-keeping of the international prototypes.

Art. 10. The international committee shall choose its chairman and secretary by secret ballot. The governments of the high contracting parties shall be notified of the result of such elections.

The chairman and secretary of the committee, and the director of the bureau, must belong to different countries.

After having been formed, the committee shall hold no new elections and make no new appointments until three months after notice thereof shall have been given to all the members by the bureau of the committee.

Art. 11. Until the new prototypes shall have been finished and distributed, the committee shall meet at least once a year. After that time its meetings shall be held at least biennially.

Art. 12. Questions upon which a vote is taken in the committee shall be decided by a majority of the votes cast. In case of a tie, the vote of the chairman shall decide. No resolution shall be considered to have been duly adopted unless the number of members present be at least equal to a majority of the members composing the committee.

This condition being fulfilled, absent members shall have the right to authorize members who are present to vote for them, and the members thus authorized shall furnish proper evidence of their authorization. The same shall be the case in elections by secret ballot.

Art. 13. During the interval occurring between two sessions, the committee shall have the right to discuss questions by correspondence.

In such cases, in order that its resolutions may be considered to have been adopted in due form, it shall be necessary for all the members of the committee to have been called upon to express their opinions.

Art. 14. The international committee for weights and measures shall provisionally fill such vacancies as may occur in it; these elections shall take place by correspondence, each of the members being called upon to take part therein.

Art. 15. The international committee shall prepare detailed regulations for the organization and the labors of the bureau, and shall fix the amounts to be paid for the performance of the extraordinary duties provided for in article 6 of this convention.

Such amounts shall be applied to the improvement of the scientific apparatus of the bureau.

Art. 16. All communications from the international committee to the governments of the high contracting parties shall take place through the diplomatic representatives of such countries at Paris.

For all matters requiring the attention of the French authorities, the committee shall have recourse to the ministry of foreign affairs of France.

Art. 17. The director of the bureau and the adjuncts shall be chosen by the international committee by secret ballot.

The employees shall be appointed by the director.

The director shall have a right to take part in the deliberations of the committee.

Art. 18. The director of the bureau shall have access to the place of deposit of the international prototypes of the meter and the kilogram only in pursuance of a resolution of the committee and in the presence of two of its members.

The place of deposit of the prototypes shall be opened only by means of three keys, one of which shall be in possession of the director of the archives of France, the second in that of the chairman of the committee, and the third in that of the director of the bureau.

The standards of the class of national prototypes alone shall be used for the ordinary comparing work of the bureau.

Art. 19. The director of the bureau shall annually furnish to the committee: 1st. A financial report concerning the accounts of the preceding year, which shall be examined, and, if found correct, a certificate to that effect shall be given him; 2d. A report on the condition of the apparatus; 3d. A general report concerning the work accomplished during the course of the year just closed.

The international committee shall make to each of the governments of the high contracting parties an annual report concerning all its scientific, technical, and administrative operations, and concerning those of the bureau. The chairman of the committee shall make a report to the general conference concerning the work that has been accomplished since its last session.

The reports and publications of the committee shall be in the French language. They shall be printed and furnished to the governments of the high contracting parties.

Art. 20. The contributions referred to in article 9 of the convention shall be paid according to the following scale:

The number representing the population, expressed in millions, shall be multiplied by the coefficient three for states in which the use of the metrical system is obligatory;

by the coefficient of two for those in which it is optional;

by the coefficient one for other states.

The sum of the products thus obtained will furnish the number of units by which the total expense is to be divided. The quotient will give the amount of the unit of expense.

Art. 21. The expense of constructing the international prototypes, and the standards and test copies which are to accompany them, shall be defrayed by the high contracting parties in accordance with the scale fixed in the foregoing article.

The amounts to be paid for the comparison and verification of standards required by states not represented at this convention shall be regu-

lated by the committee in conformity with the rates fixed in virtue of article 15 of the regulations.

Art. 22. These regulations shall have the same force and value as the convention to which they are annexed.

(Signatures).⁴

The parties to the foregoing convention are the United States, Germany, Austria-Hungary, Belgium, Brazil, Argentine Confederation, Denmark, Spain, France, Italy, Peru, Portugal, Russia, Sweden and Norway, Switzerland, Turkey, and Venezuela. It will be observed that all of the principal nations of Europe, except Great Britain, joined it and also the leading nations of North and South America. Neither of the strictly Asiatic nations is a party to it. Dealing with a single subject on which uniformity among all the nations is desirable, it was a pioneer in the establishment of international law by a conference of plenipotentiaries appointed for the sole purpose of providing permanent standards of weights and measures by which the standards in use in the different countries might be tested. The international bureau established at Paris pursuant to this convention appears to be a permanent institution affording uniform standards for all countries desiring to make use of the metric system. It exercises an international governmental function under a written fundamental law defining its powers and duties. It appears to be the first international bureau ever established by a large number of nations with continuing powers and designed to be permanent. It follows the democratic plan of deciding questions by a majority vote, each country having but one vote, whether great or small. It is supported by contributions from all the states which have joined in its organization and is open to all other nations which desire to become parties to the convention, who are permitted to join on exactly the same basis as the original parties. This most just and enlightened method of bringing about general agreements among all the nations with reference to matters of general concern has since been followed in most of the great international conventions.

On March 20, 1883, a Convention for International Protec-

⁴ Senate Documents, 2d Session, 61st Congress, 48, 1924 to 1935.

tion of Industrial Property was concluded at Paris by representatives of Belgium, Brazil, Spain, France, Guatemala, Italy, The Netherlands, Portugal, Salvador, Servia and Switzerland, which was adhered to and proclaimed by the United States on June 11, 1887. The main purpose of this Convention is expressed in the second article as follows:

"Article II. The subjects or citizens of each of the contracting States shall enjoy, in all the other states of the Union, so far as concerns patents for inventions, trade or commercial marks, and the commercial name, the advantages that the respective laws thereof at present accord, or shall afterwards accord to subjects or citizens. In consequence they shall have the same protection as the latter, and the same legal recourse against all infringements of their rights, under reserve of complying with the formalities and conditions imposed upon subjects or citizens by the democratic legislation of each State."

The first article provides that the States named "have constituted themselves into a state of Union for the protection of Industrial Property," and in the sixteenth article it is provided that: "The States that have not taken part in the present convention shall be admitted to adhere to the same upon their application. This adhesion shall be notified through the diplomatic channel to the Government of the Swiss Confederation and by the latter to all the others. It shall convey of full right, accession to all the clauses and admission to all the advantages stipulated by the present convention."⁵ Subsequent conventions relating to the same subject were entered into at Madrid on April 15, 1891,⁶ and at Brussels on December 14, 1900.⁷ Fifteen nations participated in framing the Convention of Brussels, which modifies the prior ones in some particulars but in the direction of more extended and better application of its provisions to effectuate its main purposes. Very many separate treaties had been entered into concerning the subjects of trademarks and patents and the evident advantages of a uni-

⁵ Senate Documents, 2d Session, 61st Congress, 48-1935.

⁶ *Id.* 1943.

⁷ *Id.* 1945.

form act covering the subject as between all the nations induced the making of these conventions.⁸

On March 14, 1884, a Convention for the Protection of Submarine Cables was entered into at Paris by twenty-seven Nations including most of the leading ones with a provision for the adhesion of the others. The purpose of it was to permit the laying of Cables across the Oceans over which neither of the nations had sovereignty by securing the joint consent of all of them, and to provide for their protection after laying.⁹ Subsequent agreements and protocols with reference to it were entered into on December 1, 1886;¹⁰ May 21, 1886;¹¹ and July 7, 1887.¹² In order to confer the right to lay and maintain these cables international legislation was necessary, because so much of a cable as was not within a marine league of the shore was beyond the jurisdiction of any nation.

When the first cables were laid there seems to have been little if any consideration given to the broad international aspect of the right to lay and maintain a cable on the bed of the ocean. The promoters of the first cable lines appear to have been satisfied with the permission of the governments of the countries owning the shores to land their cables. The first submarine cable that was successfully established was from Dover to Ostend, November 1, 1852. After several unsuccessful attempts to connect Europe and America by a cable across the Atlantic, communication was established in 1858 and messages of congratulation were exchanged between Queen Victoria and President Buchanan, but the line ceased to work in a few weeks. On July 27, 1866, permanent communication by cable was established, and President Johnson in his annual message to Congress said—"The entire success of the Atlantic telegraph between the coast of Ireland and the Province of Newfoundland is an achievement which has been

⁸ All these conventions relating to industrial property have been superseded by that of June 2, 1911, which is copied below in full.

⁹ *Id.* 1949.

¹⁰ *Id.* 1956.

¹¹ *Id.* 1957.

¹² *Id.* 1858.

justly celebrated in both hemispheres as the opening of an era in the progress of civilization."¹³ A French cable was landed in July, 1869, from Havre to Canso, and a cable from Ireland to Rye, New Hampshire, was completed in 1875. It having been fully demonstrated that communication by cable laid under the ocean was not merely practicable but commercially profitable other projects were started. This led to a consideration of questions as to the value of a franchise which merely allowed the landing of a cable by the governments controlling the termini but having no more right to the bed of the sea than any other government. A valid franchise to maintain an ocean cable required the consent of all the nations. To meet this situation an international conference was called and the following convention was signed by plenipotentiaries of the United States, Germany, the Argentine Confederation, Austria-Hungary, Belgium, Brazil, Costa Rica, Denmark, the Dominican Republic, Spain, Colombia, France, Great Britain, Guatemala, Greece, Italy, Turkey, the Netherlands, Luxemburg, Persia, Portugal, Roumania, Russia, Salvador, Servia, Sweden and Norway, and Uruguay.

CONVENTION FOR THE PROTECTION OF SUBMARINE CABLES

Article I. The present Convention shall be applicable, outside of the territorial waters, to all legally established submarine cables landed in the territories, colonies or possessions of one or more of the High Contracting Parties.

Art. II. The breaking or injury of a submarine cable, done wilfully or through culpable negligence, and resulting in the total or partial interruption or embarrassment of telegraphic communication, shall be a punishable offense, but the punishment inflicted shall be no bar to a civil action for damages.

This provision shall not apply to ruptures or injuries when the parties guilty thereof have become so simply with the legitimate object of saving their lives or their vessels, after having taken all necessary precautions to avoid such ruptures or injuries.

Art. III. The High Contracting Parties agree to insist, as far as possible, when they shall authorize the landing of a submarine cable, upon suitable conditions of safety, both as regards the track of the cable and its dimensions.

¹³ Messages and Papers of the Presidents, V. 3652.

Act. IV. The owner of a cable who, by the laying or repairing of that cable, shall cause the breaking or injury of another cable, shall be required to pay the cost of the repairs which such breaking or injury shall have rendered necessary, but such payment shall not bar the enforcement, if there be ground therefor, of article II of this convention.

Art. V. Vessels engaged in laying or repairing submarine cables must observe the rules concerning signals that have been or shall be adopted, by common consent, by the High Contracting Parties, with a view to preventing collisions at sea.

When a vessel engaged in repairing a cable carries the said signals, other vessels that see or are able to see those signals shall withdraw or keep at a distance of at least one nautical mile from such vessel, in order not to interfere with its operations.

Fishing gears and nets shall be kept at the same distance.

Nevertheless, a period of twenty-four hours at most shall be allowed to fishing vessels that perceive or are able to perceive a telegraph ship carrying the said signals, in order that they may be enabled to obey the notice thus given, and no obstacle shall be placed in the way of their operations during such period.

The operations of telegraph ships shall be finished as speedily as possible.

Art. VI. Vessels that see or are able to see buoys designed to show the position of cables when the latter are being laid, are out of order, or are broken, shall keep at a distance of one quarter of a nautical mile at least from such buoys.

Fishing gears and nets shall be kept at the same distance.

Art. VII. Owners of ships or vessels who can prove that they have sacrificed an anchor, a net, or any other implement used in fishing, in order to avoid injuring a submarine cable, shall be indemnified by the owner of the cable.

In order to be entitled to such indemnity, one must prepare, whenever possible, immediately after the accident, in proof thereof, a statement supported by the testimony of the men belonging to the crew; and the captain of the vessel must, within twenty-four hours after arriving at the first port of temporary entry, make his declaration to the competent authorities. The latter shall give notice thereof to the consular authorities of the nation to which the owner of the cable belongs.

Art. VIII. The courts competent to take cognizance of infractions of this convention shall be those of the country to which the vessel on board of which the infraction has been committed belongs.

It is, moreover, understood that, in cases in which the provision contained in the foregoing paragraph cannot be carried out, the repression of violations of this convention shall take place, in each of the contracting States, in the case of its subjects or citizens in accordance with the general rules of penal competence established by the special laws of those states, or by international treaties.

Art. IX. Prosecutions on account of the infractions contemplated in articles II, V and VI, of this convention, shall be instituted by the State or in its name.

Art. X. Evidence of violations of this convention may be obtained by all methods of securing proof that are allowed by the laws of the country of a court before which a case has been brought.

When the officers commanding the vessels of war or the vessels specially commissioned for that purpose, of one of the High Contracting Parties, shall have reason to believe that an infraction of the measures provided for by this Convention has been committed by a vessel other than a vessel of war, they may require the captain or master to exhibit the official documents furnishing evidence of the nationality of the said vessel. Summary mention of such exhibition shall at once be made on the documents exhibited.

Reports may, moreover, be prepared by the said officers, whatever may be the nationality of the inculpatated vessel. The reports shall be drawn up in the form and in the language in use in the country to which the officer drawing them up belongs; they may be used as evidence in the country in which they shall be invoked, and according to the laws of such country. The accused parties and the witnesses shall have the right to add or to cause to be added thereto, in their own language any explanations that they may deem proper; these declarations shall be duly signed.

Art. XI. Proceedings and trials in cases of infractions of the provisions of this Convention shall always take place as summarily as the laws and regulations in force will permit.

Art. XII. The High Contracting Parties engage to take or propose to their respective legislative bodies the measures necessary in order to secure the execution of this Convention, and especially to cause the punishment, either by fine or imprisonment, or both, of such persons as may violate the provisions of articles II, V. and VI.

Art. XIII. The High Contracting Parties shall communicate to each other such laws as may already have been or as may hereafter be enacted in their respective countries, relative to the subject of this Convention.

Art. XIV. States that have not taken part in this Convention shall be allowed to adhere thereto, on their request to do so. Notice of such adhesion shall be given, diplomatically, to the Government of the French Republic, and by the latter to the other signatory Governments.

Art. XV. It is understood that the stipulations of this Convention shall in no wise affect the liberty of action of belligerents.

Art. XVI. This Convention shall take effect on such day as shall be agreed upon by the High Contracting Parties.

It shall remain in force for five years from that day, and, in case none of the High Contracting Parties shall have given notice, twelve months previously to the expiration of said period of five years, of its intentions

to cause its effects to cease, it shall continue in force for one year, and so on from year to year.

In case one of the Signatory Powers shall give notice of its desire for the cessation of the effects of the Convention, such notice shall be effective as regards that Power only.

Art. XVII. This Convention shall be ratified; its ratification shall be exchanged at Paris as speedily as possible, and within one year at the latest.

In testimony whereof, the respective Plenipotentiaries have signed it, and have thereunto affixed their seals.

Done in twenty-six copies, at Paris, this 14th day of March, 1884.

(Signatures).¹⁴

ADDITIONAL ARTICLE

The stipulations of the Convention concluded this day for the protection of submarine cables shall be applicable, according to Article I, to the colonies and possessions of Her Britannic Majesty with the exception of those named below, to wit:

Canada,	New South Wales,	South Australia,
Newfoundland,	Victoria,	West Australia,
The Cape,	Queensland,	New Zealand.
Natal,	Tasmania (2),	

Nevertheless, the stipulations of the said Convention shall be applicable to one of the above named colonies or possessions, if, in their (its?) name, a notification to that effect has been addressed by the representative of Her Britannic Majesty at Paris to the Minister of Foreign Affairs of France.

Each of the above named Colonies or possessions that shall have adhered to the said Convention, shall have the privilege of withdrawing in the same manner as the contracting powers. In case one of the colonies or possessions in question shall desire to withdraw from the Convention, a notification to that effect shall be addressed by her Britannic Majesty's representative at Paris to the Minister of Foreign Affairs of France.

Done in twenty-six copies at Paris, this fourteenth day of March, 1884.

(Signatures)¹⁵

Declaration Respecting the Interpretation of Articles II and IV of the Convention of March 14, 1884, for the Protection of Submarine Cables.

The undersigned Plenipotentiaries of the signatory Governments of the Convention of March 14, 1884, for the protection of submarine cables, having recognized the expediency of defining the sense of the terms of Articles II and IV, of the said convention, have prepared by common accord the following declaration:

¹⁴ Senate Documents, 2d Session, 61st Congress, 48, 1949.

¹⁵ Senate Documents, 2d Session, 61st Congress, 48, 1955.

Certain doubts having arisen as to the meaning of the word "wilfully" inserted in Article II of the convention of the 14th of March, 1884, it is understood that the imposition of penal responsibility, mentioned in the said article, does not apply to cases of breaking or of injuries occasioned accidentally or necessarily in repairing a cable, when all precautions have been taken to avoid such breakings or damages.

It is likewise understood that Article IV of the Convention has no other object and is to have no other effect than to charge the competent tribunals of each country with the determination, conformably to their laws and according to circumstances, of the question of the civil responsibility of the owner of a cable, who, by the laying or repairing of such cable, causes the breaking or injury of another cable, and also of the consequences of that responsibility if it is found to exist.

Done at Paris, December 1, 1886, and March 23, 1887, for Germany.

(Signatures).¹⁶

FINAL PROTOCOL

The undersigned, Plenipotentiaries of the Governments, parties to the Convention of March 14, 1884, for the protection of submarine cables, having met at Paris for the purpose of fixing, in pursuance of article 16 of that international instrument, the date for putting the said convention into execution, have agreed upon the following:

I. The International Convention of March 14, 1884, for the protection of submarine cables, shall go into operation on the 1st day of May, 1888, provided, however, that at that date those of the contracting Governments that have not yet adopted the measures provided for by article 12 of the said international instrument, shall have conformed to that stipulation.

II. The measures which shall have been taken by the said States in execution of article 12 aforesaid, shall be made known to the other contracting Powers through the French Government, which is charged with the examination of the said measures.

III. The Government of the French Republic is likewise charged with the examination of the similar legislative and reglementary provisions which are to be adopted, in their respective countries, in pursuance of article 12, by such states as have not taken part in the Convention, and as may desire to avail themselves of the privilege of accession, for which provision is made in article 14.

In testimony whereof, the undersigned Plenipotentiaries have adopted this final protocol, which shall be considered as forming an integral part of the International Convention of March 14, 1884.

Done at Paris, July 7, 1887.

(Signatures).¹⁷

¹⁶ Id. 48, 1956.

¹⁷ Id. 48, 1958.

Early in the war the British cut the two German cables extending from Emden to America by way of the Azores and also the cable between Monrovia, Liberia, and Brazil. This action was not in contravention of the terms of the foregoing treaty, article fifteen of which expressly provides that it shall not affect the liberty of action of belligerents. But the action of the British in cutting these cables affected not only the German powers but also the United States, Brazil and Liberia, which were all neutrals at the time. Several German cables in the Pacific were also seized by the British: one from the island of Yap in the Caroline group to Singapore, connecting there with the Dutch and British cables; and another connecting this cable with Celebes. The importance of these lines as means of communication with the most remote parts of the earth renders the disposition to be made of them a matter of international concern. The laying and protection of ocean cables presents an international problem of continuing importance. No single nation or group of nations is competent to make law for the ocean.

On March 15, 1886, a convention was signed at Brussels by the plenipotentiaries of the United States, Belgium, Brazil, Spain, Italy, Portugal, Servia, and Switzerland providing for international exchange of official documents, scientific and literary publications. Other states were invited to adhere to it. This convention provides for exchanges of documents through bureaus to be established in each of the contracting states. It does not establish any international bureau.¹⁸

THE AFRICAN SLAVE TRADE

Slavery has been recognized by the laws of most of the countries of the world from the earliest ages of which we have any account until modern times. The Greeks and Romans enslaved their prisoners of war and slavery persisted throughout the Roman Empire until it was converted into serfdom by the feudal system. At the time of the discovery of America slavery was not recognized by the laws of any European country except Turkey, which was always more

¹⁸ Senate Documents, 2d Session, 61st Congress, 48, 1959.

Asiatic than European. But at a very early stage of the settlement of America the Europeans began the introduction of slavery into the colonies. Columbus proposed an exchange of his Carib Indian prisoners as slaves for live stock to be furnished to Hispanola by Spanish merchants and in 1494 sent home more than 500 of them, but Queen Isabella would not permit them to be sold at Seville and ordered them sent back. The Spaniards, however, did not hesitate to enslave the Indians in America. The Portuguese had commenced traffic in African slaves before the discovery of America. They at first obtained negroes from the coast of Africa and brought them into Spain where they were made slaves. When Ovando was sent to Hispanola as governor in 1502 permission was given to carry to the colony negro slaves born in Spain. From this time on the slave trade grew with the settlement of America, and was soon participated in by traders from all the maritime nations of Europe. In 1620 a Dutch ship from the coast of Guinea visited Jamestown, Virginia, and sold part of her cargo of negroes to the tobacco planters. This appears to have been the beginning of slavery in British America. By the treaty of Utrecht a contract for supplying the Spanish colonies with 4,800 negroes annually, which had previously passed from the Dutch to the French, was transferred to Great Britain, and an English company was to enjoy the monopoly for thirty years from May 1, 1713. The British slave trade reached its maximum just before the revolt of the American colonies, when there were 192 slave ships from Liverpool, London, Bristol, and Lancaster, engaged in the traffic, with total space for the transport of 47,146 negroes. After the war the number of stations on the coast of Africa from which slaves were procured is given as forty, of which 14 were English, 3 French, 15 Dutch, 4 Portuguese, and 4 Danish. It was estimated that the annual traffic of the different nations in 1790 was, by the British, 38,000, by the French, 20,000, by the Dutch, 4,000, by the Danes, 2,000, by the Portuguese, 10,000, total 74,000. It seems almost incredible that the professedly Christian nations of Europe could all join in the cruelties of this traffic. The business of obtaining the negroes

in Africa was of course carried on in utter disregard of every humane principle. War was waged to get prisoners, and the whole coast and far into the interior of Africa was kept in a constant state of turmoil. When they could not capture enough from other tribes to supply the demand the chiefs often sold members of their own. Great numbers were killed in the forays to capture them and died from the cruel treatment given them after capture. Of those shipped across the ocean $12\frac{1}{2}$ per cent are said to have died during the passage and $37\frac{1}{2}$ per cent more in port and during the process of breaking them in as slaves.¹⁹ The barbarities of the traffic shocked the moral sense of all Christendom. The total colored population of the United States, substantially all of whom were imported as slaves or the descendants of them, was 757,208 according to the census of 1790. In 1910 the colored population had increased to 10,239,579.²⁰ Though the revolutionary fathers were keenly alive to the immorality of the slave trade and desired to put an end to it, the influence of those engaged in the traffic was such that the constitution prevented Congress from prohibiting the importation of negroes until 1808.²¹

The growth of sentiment against slavery and the slave trade both in Europe and America was very rapid in the nineteenth century. By the constitutions of Chile of 1833 and of the Argentine Republic of 1860 slavery was abolished in those countries, and with the abolition in the United States in 1863, slavery ceased to be an institution of the western hemisphere. The Portuguese who were pioneers in the trade were the last to abandon it by royal decree in 1836. The great traffic in slaves which had been so active between the coasts of Africa and America during the eighteenth came to an end during the first half of the nineteenth century. But this did not put an end to the traffic nor to the disorders on the African continent resulting from it. Slavery still existed in the Mohammedan countries of northern Africa and western Asia.

¹⁹ Encyclopedia Britannica, XXII, 137, 138.

²⁰ Statistical Abstract, 1911, p. 39.

²¹ Constitution of the United States, Art. I, Sec. 9.

Africa was still the source of supply and the hunters and traders were still busy in gathering and transporting slaves from Africa to Turkey, Persia, Arabia and neighboring countries. The people of European countries which had been most active in the slave-trade between Africa and America became interested in the legitimate trade with Africa and therefore in the pacification and civilization of that continent. The crimes and barbarities of slave hunters were utterly incompatible with social order and industrial and commercial development. Great Britain, France, Portugal, Denmark, the Netherlands and Spain, all of which had ceased to tolerate slavery in their possessions, induced slave-holding Turkey and Persia to join in putting an end to the slave-trade. It was a vast undertaking, requiring not only the policing of nearly the whole eastern coast of Africa, but also supervision of the caravan routes across the desert. Most of the slaves were taken from parts of the continent over which there was no organized government. Transportation of them to the countries of Asia was mostly by sea, and it was necessary to search and seize vessels employed in the traffic. Guns and ammunition were used by the slave-hunters in their raids to capture negroes and intoxicating liquors in their schemes to take them by fraud and deception. It was therefore deemed necessary to stop the importation of arms and ammunition and of distilled liquors.

At a conference of powers representing Europe, Asia, Africa and North America, held at Brussels in 1890, a general act for the repression of the African slave-trade was agreed upon and signed by representatives of the following powers: the United States, Germany, Austria-Hungary, Belgium, Denmark, Spain, Independent State of the Congo, France, Great Britain, Italy, the Netherlands, Luxemburg, Persia, Portugal, Russia, Sweden and Norway, Turkey and Zanzibar. By this act these powers undertook to legislate for the greater part of the African continent, the Indian Ocean and adjoining seas and gulfs on the subject of the slave-trade and the introduction of fire-arms and intoxicating liquors into Africa. These nations assumed a joint guardianship of the savage tribes of Africa, and undertook to protect them from

the evils of these traffics and pacify the continent. Since then most of the powers which were parties to this humane undertaking have been engaged, between themselves, in the greatest and most destructive war ever known. They deemed themselves competent to preserve peace in Africa, but have utterly failed to preserve peace in Europe and Asia. Notwithstanding this failure at home, the good accomplished by this joint undertaking has been very great and its effects will doubtless be preserved. Though there are still cases of traffic in slaves, they are now very rare. The following is the full text of this most remarkable piece of international legislation.

GENERAL ACT FOR THE REPRESSION OF AFRICAN SLAVE TRADE

Chapter I. Slave-trade countries.—Measures to be taken in the places of origin.

Article I. The powers declare that the most effective means of counteracting the slave-trade in the interior of Africa are the following:

1. Progressive organization of the administrative, judicial, religious, and military services in the African territories placed under the sovereignty or protectorate of civilized nations.

2. The gradual establishment in the interior, by the powers to which the territories are subject, of strongly occupied stations, in such a way as to make their protective or repressive action effectively felt in the territories devastated by slave hunting.

3. The construction of roads, and in particular of railways, connecting the advanced stations with the coast, and permitting easy access to the inland waters, and to such of the upper courses of the rivers and streams as are not broken by rapids and cataracts, with a view to substituting economical and rapid means of transportation for the present system of carriage by men.

4. Establishment of steam-boats on the inland navigable waters and on the lakes, supported by fortified posts established on the banks.

5. Establishment of telegraphic lines, insuring the communication of the posts and stations with the coast and with the administrative centres.

6. Organization of expeditions and flying columns, to keep up the communication of stations with each other and with the coast to support repressive action, and to insure the security of high roads.

7. Restriction of the importation of fire-arms, at least of those of modern pattern, and of ammunition throughout the entire extent of the territory in which the slave-trade is carried on.

Art. II. The stations, the inland cruisers organized by each power in its waters, and the posts which serve as ports of register for them shall,

independently of their principal task, which is to prevent the capture of slaves and intercept the routes of the slave trade, have the following subsidiary duties:

1. To support and, if necessary, to serve as a refuge for the native population, whether placed under the sovereignty or the protectorate of the state to which the station is subject, or independent, and temporarily for all other natives in case of imminent danger; to place the population of the first of these categories in a position to co-operate for their own defense; to diminish the intestine wars between tribes by means of arbitration; to initiate them in agricultural labor and in the industrial arts so as to increase their welfare; to raise them to civilization and bring about the extinction of barbarous customs, such as cannibalism, and human sacrifices.

2. To give aid and protection to commercial enterprises; to watch over their legality by especially controlling contracts for service with natives, and to prepare the way for the foundation of permanent centers of cultivation and of commercial settlements.

3. To protect, without distinction of creed, the missions which are already or that may hereafter be established.

4. To provide for the sanitary service and to extend hospitality and help to explorers and to all who take part in Africa in the work of repressing the slave-trade.

Art. III. The powers exercising a sovereignty or a protectorate in Africa confirm and give precision to their former declarations, and engage to proceed gradually, as circumstances may permit, either by the means above indicated, or by any other means that they may consider suitable, with the repression of the slave-trade, each State in its respective possessions and under its own direction. Whenever they consider it possible, they shall lend their good offices to such powers as, with a purely humanitarian object, may be engaged in Africa in the fulfillment of a similar mission.

Art. IV. The States exercising sovereign powers or protectorates in Africa may in all cases delegate to companies provided with charters all or a portion of the engagements which they assume in virtue of Article III. They remain, nevertheless, directly responsible for the engagements which they contract by the present act, and guarantee the execution thereof. The powers promise to encourage, aid and protect such national associations and enterprises due to private initiative as may wish to co-operate in their possessions in the repression of the slave-trade, subject to their receiving previous authorization, such authorization being revokable at any time, subject also to their being directed and controlled, and to the exclusion of the exercise of rights of sovereignty.

Art. V. The contracting powers pledge themselves, unless this has already been provided for by laws in accordance with the spirit of the

present article, to enact or propose to their respective legislative bodies, in the course of one year at the latest from the date of the signing of the present general act, a law rendering applicable, on the one hand, the provisions of their penal laws concerning grave offenses against the person, to the organizers and abettors of slave-hunting, to those guilty of mutilating male adults and children, and to all persons taking part in the capture of slaves by violence; and, on the other hand, the provisions relating to offenses against individual liberty, to carriers and transporters of, and to dealers in slaves.

The accessories and accomplices of the different categories of slave captors and dealers above specified shall be punished with penalties proportionate to those incurred by the principals.

Guilty persons who may have escaped from the jurisdiction of the authorities of the country where the crimes or offenses have been committed shall be arrested either on communication of the incriminating evidence by the authorities who have ascertained the violation of the law, or on production of any other proof of guilt by the power in whose territory they may have been discovered, and shall be kept, without other formality, at the disposal of the tribunals competent to try them.

The powers shall communicate to one another, with the least possible delay, the laws or decrees existing or promulgated in execution of the present Article.

Art. VI. Slaves liberated in consequence of the stoppage or dispersion of a convoy in the interior of the continent, shall be sent back, if circumstances permit, to their country of origin; if not, the local authorities shall facilitate, as much as possible, their means of living, and if they desire it, help them to settle on the spot.

Art. VII. Any fugitive slave claiming, on the continent, the protection of the signatory powers, shall receive it, and shall be received in the camps and stations officially established by said powers, or on board of the vessels of the State plying on the lakes and rivers. Private stations and boats are only permitted to exercise the right of asylum subject to the previous consent of the State.

Art. VIII. The experience of all nations that have intercourse with Africa having shown the pernicious and preponderating part played by fire-arms in operations connected with the slave-trade as well as internal wars between the native tribes; and this same experience having clearly proved that the preservation of the African population whose existence it is the express wish of the powers to protect, is a radical impossibility, if measures restricting the trade in fire-arms and ammunition are not adopted, the powers decide, so far as the present state of their frontiers permits, that the importation of fire-arms, and especially of rifles and improved weapons, as well as of powder, ball and cartridges, is, except in the cases and under the conditions provided for in the following

Article, prohibited in the territories comprised between the 20th parallel of North latitude and the 22d parallel of South latitude, and extending westward to the Atlantic Ocean and eastward to the Indian Ocean and its dependencies, including the islands adjacent to the coast within 100 nautical miles from the shore.

Art. IX. The introduction of fire-arms and ammunition, when there shall be occasion to authorize it in the possessions of the signatory powers that exercise rights of sovereignty or of protectorate in Africa, shall be regulated, unless identical or stricter regulations have already been enforced, in the following manner in the zone defined in Article VIII:

All imported fire-arms shall be deposited, at the cost, risk and peril of the importers, in a public warehouse under the supervision of the State government. No withdrawal of fire-arms or imported ammunition shall take place from such warehouses without the previous authorization of the said government. This authorization shall, except in the cases hereinafter specified, be refused for the withdrawal of all arms for accurate firing, such as rifles, magazine guns, or breech-loaders, whether whole or in detached pieces, their cartridges, caps, or other ammunition intended for them.

In seaports and under conditions affording the needful guarantees, the respective governments may permit private warehouses, but only for ordinary powder and for flint-lock muskets, and to the exclusion of improved arms and ammunition therefor.

Independently of the measures directly taken by the governments for the arming of the public force and the organization of their defence, individual exceptions may be allowed in the case of persons furnishing sufficient guarantees that the weapon and ammunition delivered to them shall not be given, assigned or sold to third parties, and for travelers provided with a declaration of their government stating that the weapon and ammunition are intended for their personal defence exclusively.

All arms, in the cases provided for in the preceding paragraph, shall be registered and marked by the supervising authorities, who shall deliver to the persons in question permits to bear arms, stating the name of the bearer and showing the stamp with which the weapon is marked. These permits shall be revocable in case proof is furnished that they have been improperly used, and shall be issued for five years only, but may be renewed.

The above rule as to warehousing shall also apply to gunpowder.

Only flint-lock guns, with unrifled barrels, and common gunpowder known as trade powder, may be withdrawn from the warehouses for sale. At each withdrawal of arms and ammunition of this kind for sale, the local authorities shall determine the regions in which such arms and ammunition may be sold. The regions in which the slave-trade is carried on shall always be excluded. Persons authorized to take arms or powder

out of the public warehouses, shall present to the State government, every six months, detailed lists indicating the destinations of the arms and powder sold, as well as the quantities still remaining in the warehouses.

Art. X. The Governments shall take all such measures as they may deem necessary to insure as complete a fulfillment as possible of the provisions respecting the importation, sale and transportation of fire-arms and ammunition, as well as to prevent either the entry or exit thereof via the inland frontiers, or the passage thereof to regions where the slave-trade is rife.

The authorization of transit within the limits of the zone specified in Article VIII, shall not be withheld when the arms and ammunition are to pass across the territory of the signatory or adherent power occupying the coast, towards inland territories under the sovereignty or protectorate of another signatory or adherent power, unless this latter power have direct access to the sea through its own territory. If this access be wholly interrupted, the authorization of transit cannot be withheld. Any application for transit must be accompanied by a declaration emanating from the government of the power having the inland possessions, and certifying that the said arms and ammunition are not intended for sale, but are for the use of the authorities of such power, or the military forces necessary for the protection of the missionary or commercial stations, or of persons mentioned by name in the declaration. Nevertheless, the territorial power of the coast retains the right to stop, exceptionally and provisionally, the transit of improved arms and ammunition across its territory, if, in consequence of inland disturbances or other serious danger, there is ground for fearing lest the dispatch of arms and ammunition may compromise its own safety.

Art. XI. The powers shall communicate to one another information relating to the traffic in fire-arms and ammunition, the permits granted, and the measures of repression in force in their respective territories.

Art. XII. The powers engage to adopt or to propose to their respective legislative bodies the measures necessary everywhere to secure the punishment of infringers of the prohibitions contained in Articles VIII and IX, and that of their accomplices, besides the seizure and confiscation of the prohibited arms and ammunition, either by fine or imprisonment, or by both of these penalties, in proportion to the importance of the infraction and in accordance with the gravity of each case.

Art. XIII. The signatory powers that have possessions in Africa in contact with the zone specified in Article VIII, bind themselves to take the necessary measures for preventing the introduction of fire-arms and ammunition across their inland frontiers into the regions of said zone, at least that of improved arms and cartridges.

Art. XIV. The system stipulated in Articles VIII to XIII, shall re-

main in force for twelve years. In case none of the contracting parties shall have given notice twelve months before the expiration of this period, of its intention to put an end to it, or shall have demanded its revision, it shall remain obligatory for two years longer, and shall thus continue in force from two years to two years.

Chapter II. Caravan Routes and Transportation of Slaves by land.

Art. XV. Independently of the repressive or protective action which they exercise in the centers of the slave-trade, it shall be the duty of the stations, cruisers and posts, whose establishment is provided for in Article II, and of all other stations established or recognized by Article IV, by each government in its possessions, to watch, so far as circumstances will permit, and in proportion to the progress of their administrative organization, the roads traveled in their territory by slave-dealers, to stop convoys on the march, or to pursue them wherever their action can be legally exercised.

Art. XVI. In the regions of the coast known to serve habitually as places of passage or terminal points for slave-traffic coming from the interior, as well as at the points of intersection of the principal caravan routes crossing the zone contiguous to the coast already subject to the control of the sovereign or protective powers, posts shall be established under the conditions and with the reservations mentioned in Article III, by the authorities to which the territories are subject, for the purpose of intercepting the convoys and liberating the slaves.

Art. XVII. A strict watch shall be organized by the local authorities at the ports and places near the coast, with a view to preventing the sale and shipment of slaves brought from the interior, as well as the formation and departure landwards of bands of slave-hunters and dealers.

Caravans arriving at the coast or in its vicinity, as well as those arriving in the interior at a locality occupied by the territorial power, shall, on their arrival, be subjected to a minute inspection as to the persons composing them. Any such person being ascertained to have been captured or carried off by force, or mutilated, either in his native place or on the way, shall be set free.

Art. XVIII. In the possessions of each of the contracting powers, it shall be the duty of the government to protect liberated slaves, to return them, if possible, to their country, to procure means of subsistence for them, and, in particular, to take charge of the education and subsequent employment of abandoned children.

Art. XIX. The penal arrangements provided for by Article V shall be applicable to all offences committed in the course of operations connected with the transportation of and traffic in slaves on land whenever such offences may be ascertained to have been committed.

Any person having incurred a penalty in consequence of an offence provided for by the present general act, shall incur the obligation of

furnishing security before being able to engage in any commercial transaction in countries where the slave-trade is carried on.

Chapter III. Repression of the Slave-trade by Sea.

Section I. General provisions.

Art. XX. The signatory powers recognize the desirability of taking steps in common for the more effective repression of the slave-trade in the maritime zone in which it still exists.

Art. XXI. This zone extends, on the one hand, between the coasts of the Indian Ocean (those of the Persian Gulf and Red Sea included), from Beloochistan to Cape Tangalane (Quilimane); and, on the other hand, a conventional line which follows the meridian from Tangalane till it intersects the 26th degree of South latitude; it is then merged in this parallel, then passes round the Island of Madagascar by the east, keeping 20 miles off the east and north shore, till it intersects the meridian at Cape Ambre. From this point the limit of the zone is determined by an oblique line, which extends to the coast of Beloochistan, passing 20 miles off Cape Ras-el-Had.

Art. XXII. The signatory powers of the present general act,—among whom exist special conventions for the suppression of the slave-trade, have agreed to restrict the clauses of those conventions concerning the reciprocal right of visit, of search and of seizure of vessels at sea, to the above mentioned zone.

Art. XXIII. The same powers also agree to limit the above mentioned right to vessels whose tonnage is less than 500 tons. This stipulation shall be revised as soon as experience shall show the necessity therefor.

Art. XXIV. All other provisions of the conventions concluded for the suppression of the slave-trade between the aforesaid powers shall remain in force provided they are not modified by the present general act.

Art. XXV. The signatory powers engage to adopt efficient measures to prevent the unlawful use of their flag, and to prevent the transportation of slaves on vessels authorized to fly their colors.

Art. XXVI. The signatory powers engage to adopt all measures necessary to facilitate the speedy exchange of information calculated to lead to the discovery of persons taking part in operations connected with the slave-trade.

Art. XXVII. At least one international bureau shall be created; it shall be established at Zanzibar. The high contracting parties engage to forward to it all the documents specified in Article XLI, as well as all information of any kind likely to assist in the suppression of the slave-trade.

Art. XXVIII. Any slave who has taken refuge on board a ship of war bearing the flag of one of the signatory powers, shall be immediately and definitely set free. Such freedom, however, shall not withdraw him from

the competent jurisdiction if he has been guilty of any crime or offense at common law.

Art. XXIX. Any slave detained against his will on board of a native vessel shall have the right to demand his liberty. His release may be ordered by any agent of any of the signatory powers on whom the present general act confers the right of ascertaining the status of persons on board of such vessels, although such release shall not withdraw him from the competent jurisdiction if he has committed any crime or offense at common law.

Section II. Regulation concerning the use of the flag and supervision by cruisers.

1. Rules for granting the flag to native vessels, and as to crew lists and manifests of black passengers on board.

Art. XXX. The signatory powers engage to exercise a strict surveillance over native vessels authorized to carry their flag in the zone mentioned in Article XXI, and over the commercial operations carried on by such vessels.

Art. XXXI. The term "native vessel" applies to vessels filling one of the following conditions:

1. It shall present the outward appearance of native build or rigging.
2. It shall be manned by a crew of whom the captain and a majority of the seamen belong by origin to one of the countries on the coast of the Indian Ocean, the Red Sea, or the Persian Gulf.

Art. XXXII. The authorization to carry the flag of one of the said powers shall in future be granted only to such native vessels as shall satisfy at the same time the three following conditions:

1. Fitters-out or owners of ships must be either subjects of or persons protected by the power whose flag they ask to carry.
2. They shall be obliged to prove that they possess real estate situated in the district of the authority to whom their application is addressed, or to furnish bona fide security as a guaranty of the payment of such fines as may be incurred.
3. The above-named fitters-out or owners of ships, as well as the captain of the vessel, shall prove that they enjoy a good reputation, and that in particular they have never been sentenced to punishment for acts connected with the slave trade.

Art. XXXIII. This authorization shall be renewed every year. It may at any time be suspended or withdrawn by the authorities of the power whose colors the vessel carries.

Art. XXXIV. The act of authorization shall contain the statements necessary to identify the vessel. The captain shall have the keeping thereof. The name of the vessel and the amount of its tonnage shall be cut and painted in Latin characters on the stern, and the initial or initials of the name of the port of registry, as well as the registration num-

ber in the series of the numbers of that port, shall be printed in black on the sails.

Art. XXXV. A list of the crew shall be issued to the captain of the vessel at the port of departure by the authorities of the power whose colors it carries. It shall be renewed at every fresh venture of the vessel, or, at the latest, at the end of a year, and in accordance with the following provisions:

1. The vessel shall be visaed at the departure of the vessel by the authority that has issued it.

2. No negro can be engaged as a seaman on a vessel without having previously been questioned by the authority of the power whose colors it carries, or, in default thereof, by the territorial authority, with a view to ascertaining the fact of his having contracted a free engagement.

3. This authority shall see that the proportion of seamen and boys is not out of proportion to the tonnage or rigging.

4. The authorities who shall have questioned the men before their departure shall enter them on the list of the crew in which they shall be mentioned with a summary description of each of them alongside his name.

5. In order the more effectively to prevent any substitution, the seamen may, moreover, be provided with a distinctive mark.

Art. XXXVI. When the captain of a vessel shall desire to take negro passengers on board, he shall make his declaration to that effect to the authority of the power whose colors he carries, or in default thereof, to the territorial authority. The passengers shall be questioned, and after it is ascertained that they embarked of their own free will, they shall be entered in a special manifest, bearing the description of each of them alongside of his name, and specially sex and height. Negro children shall not be taken as passengers unless they are accompanied by their relations, or by persons whose respectability is well known. At the departure, the passenger roll shall be visaed by the aforesaid authority after it has been called. If there are no passengers on board, this shall be specially mentioned in the crew-list.

Art. XXXVII. At the arrival at any port of call or of destination, the captain of the vessel shall show to the authority of the power whose flag he carries, or, in default thereof, to the territorial authority, the crew-list, and, if need be, the passenger-roll previously delivered. The authority shall check the passengers who have reached their destination or who are stopping in a port of call, and shall mention their landing in the roll. At the departure of the vessel, the same authority shall affix a fresh *visé* to the list and roll, and call the roll of the passengers.

Art. XXXVIII. On the African coast and on the adjacent islands, no negro passengers shall be taken on board of a native vessel, except in localities where there is a resident authority belonging to one of the signatory powers,

Throughout the extent of the zone mentioned in Article XXI, no negro passenger shall be landed from a native vessel except at a place in which there is a resident officer belonging to one of the high contracting powers, and unless such officer is present at the landing.

Cases of *vis major* that may have caused an infraction of these provisions shall be examined by the authority of the power whose colors the vessel carries, or, in default thereof, by the territorial authority of the port at which the vessel in question calls. .

Art. XXXIX. The provisions of Articles XXXV, XXXVI, XXXVII, and XXXVIII, are not applicable to vessels only partially decked, having a crew not exceeding ten men, and filling one of the two following conditions:

1. That it be exclusively used for fishing within the territorial waters.
2. That it be occupied in the petty coasting trade between the different ports of the same territorial power, without going farther than five miles from the coast.

These different boats shall receive, as the case may be, a special license from the territorial or consular authority, which shall be renewed every year, and subject to revocation as provided in Article XL, the uniform model of which license is annexed to the present general act and shall be communicated to the international information office.

Art. XL. Any act or attempted act connected with the slave-trade that can be legally shown to have been committed by the captain, fitter-out, or owner of a ship authorized to carry the flag of one of the signatory powers, or having procured the license provided for in Article XXXIX, shall entail the immediate withdrawal of the said authorization or license. All violations of the provisions of Section 2 of Chapter III shall render the person guilty thereof liable to the penalties provided by the special laws and ordinances of each of the contracting parties.

Art. XLI. The signatory powers engage to deposit at the international information office the specimen forms of the following documents:

1. License to carry the flag;
2. The crew-list;
3. The negro passenger list.

These documents, the tenor of which may vary according to the different regulations of each country, shall necessarily contain the following particulars, drawn up in one of the European languages:

1. As regards the authorization to carry the flag:
 - (a) The name, tonnage, rig, and the principal dimensions of the vessel;
 - (b) The register number and the signal letter of the port of registry;
 - (c) The date of obtaining the license, and the office held by the person who issued it.
2. As regards the list of the crew:
 - (a) The name of the vessel, of the captain and the fitter-out or owner;
 - (b) The tonnage of the vessel;

(c) The register number and the port of registry, its destination, as well as the particulars specified in Article XXV.

3. As regards the list of negro passengers:

The name of the vessel which conveys them, and the particulars indicated in Article XXXVI, for the proper identification of the passengers.

The signatory powers shall take the necessary measures so that the territorial authorities or their consuls may send to the same office certified copies of all authorizations to carry their flag as soon as such authorizations shall have been granted, as well as notices of the withdrawal of any such authorization.

The provisions of the present article have reference only to papers intended for native vessels.

2. The stopping of suspected vessels.

Art. XLII. When the officers in command of war-vessels of any of the signatory powers have reason to believe that a vessel whose tonnage is less than 500 tons, and which is found navigating in the above-named zone, is engaged in the slave-trade or is guilty of the fraudulent use of a flag, they may examine the ship's papers.

The present article does not imply any change in the present state of things as regards jurisdiction in territorial waters.

Art. XLIII. To this end, a boat commanded by a naval officer in uniform may be sent to board the suspected vessel after it has been hailed and informed of this intention.

The officers sent on board of the vessel which has been stopped shall act with all possible consideration and moderation.

Art. XLIV. The examination of the ship's papers shall consist of the examination of the following documents:

1. As regards native vessels, the papers mentioned in Article XLI.

2. As regards other vessels, the documents required by the different treaties or conventions that are in force.

The examination of the ship's papers only authorizes the calling of the roll of the crew and passengers in the cases and in accordance with the conditions provided for in the following article.

Art. XLV. The examination of the cargo or the search can only take place in the case of vessels sailing under the flag of one of the powers that have concluded, or may hereafter conclude the special conventions provided for in Article XXII, and in accordance with the provisions of such conventions.

Art. XLVI. Before leaving the detained vessel, the officer shall draw up a minute according to the forms and in the language in use in the country to which he belongs.

This minute shall be dated and signed by the officer, and shall recite the facts.

The captain of the detained vessel, as well as the witnesses, shall have

the right to cause to be added to the minutes any explanations they may think expedient.

Art. XLVII. The commander of a man-of-war who has detained a vessel under a foreign flag shall, in all cases, make a report thereof to his own government, and state the grounds upon which he acted.

Art. XLVIII. A summary of this report, as well as a copy of the minute drawn up by the officer on board the detained vessel, shall be sent, as soon as possible, to the international information office, which shall communicate the same to the nearest consular or territorial authority of the power whose flag the vessel in question has shown. Duplicates of these documents shall be kept in the archives of the bureau.

Art. XLIX. If, in performing the acts of supervision mentioned in the preceding articles, the officer in command of the cruiser is convinced that an act connected with the slave-trade has been committed on board during the passage, or that irrefutable proofs exist against the captain, or fitter-out, for accusing him of fraudulent use of the flag, or fraud, or participation in the slave-trade, he shall conduct the arrested vessel to the nearest port of the zone where there is a competent magistrate of the power whose flag has been used.

Each signatory power engages to appoint in the zone, and to make known to the international information office, the territorial or consular authorities or special delegates who are competent in the above mentioned cases.

A suspected vessel may also be turned over to a cruiser of its own nation, if the latter consents to take charge of it.

3. Of the examination and trial of vessels seized.

Art. L. The magistrate referred to in the preceding article, to whom the arrested vessel has been turned over, shall proceed to make a full investigation, according to the laws and rules of his country, in the presence of an officer belonging to the foreign cruiser.

Art. LI. If it is proved by the inquiry that the flag has been fraudulently used, the arrested vessel shall remain at the disposal of its captor.

Art. LII. If the examination shows an act connected with the slave-trade, proved by the presence on board of slaves destined for sale, or any other offense connected with the slave-trade for which provision is made by special convention, the vessel and cargo shall remain sequestered in charge of the magistrate who shall have conducted the inquiry.

The captain and crew shall be turned over to the tribunals designated by Articles LIV and LVI. The slaves shall be set at liberty as soon as judgment has been pronounced.

In the cases provided for by this article, liberated slaves shall be disposed of in accordance with the special conventions concluded, or to be concluded, between the signatory powers. In default of such conventions, the said slaves shall be turned over to the local authority, to be

sent back, if possible, to their country of origin; if not, this authority shall facilitate to them, in so far as it may be in its power, the means of livelihood, and, if they desire it, of settling on the spot.

Art. LIII. If it shall be proved by the inquiry that the vessel has been illegally arrested, there shall be clear title to an indemnity in proportion to the damages suffered by the vessel being taken out of its course.

The amount of this indemnity shall be fixed by the authority that has conducted the inquiry.

Art. LIV. In case the officer of the capturing vessel does not accept the conclusions of the inquiry held in his presence, the matter shall be turned over to the tribunal of the nation whose flag the captured vessel has borne.

No exception shall be made to this rule, unless the disagreement arises in respect of the amount of the indemnity stipulated in Article LIII, and this shall be fixed by arbitration, as specified in the following article.

Art. LV. The capturing officer and the authority which has conducted the inquiry shall each appoint a referee within forty-eight hours, and the two arbitrators shall have twenty-four hours to choose an umpire. The arbitrators shall, as far as possible, be chosen from among the diplomatic, consular, or judicial officers of the signatory powers. Natives in the pay of the contracting Governments are formally excluded. The decision shall be by a majority of votes, and be considered as final.

If the court of arbitration is not constituted in the time indicated, the procedure in respect of the indemnity, as in that of damages, shall be in accordance with the provisions of Article LVIII, paragraph 2.

Art. LVI. The cases shall be brought with the least possible delay before the tribunal of the nation whose flag has been used by the accused. However, the consuls or any other authority of the same nation as the accused, specially commissioned to this end, may be authorized by their Government to pronounce judgment instead of the tribunal.

Art. LVII. The procedure and trial of violations of the provisions of Chapter III shall always be concluded in as summary a manner as is permitted by the laws and regulations in force in the territories subject to the authority of the signatory powers.

Art. LVIII. Any decision of the national tribunal or authorities referred to in Article LVI, declaring that the seized vessel did not carry on the slave-trade, shall be immediately enforced, and the vessel shall be at perfect liberty to continue on its course.

In this case, the captain or owner of any vessel that has been seized without legitimate ground of suspicion, or subjected to annoyance, shall have the right of claiming damages, the amount of which shall be fixed by agreement between the Governments directly interested, or by arbitration, and shall be paid within a period of six months from the date of the judgment acquitting the captured vessel.

Art. LIX. In case of condemnation, the sequestered vessel shall be declared lawfully seized for the benefit of the captor.

The captain, crew, and all other persons found guilty shall be punished according to the gravity of the crimes or offenses committed by them, and in accordance with Article V.

Art. LX. The provisions of Articles L and LIX do not in any way affect the jurisdiction or procedure of existing special tribunals, or of such as may hereafter be formed to take cognizance of offenses connected with the slave-trade.

Art. LXI. The high contracting parties engage to make known to one another, reciprocally, the instructions which they shall give, for the execution of the provisions of Chapter III, to the commanders of their men-of-war navigating the seas of the zone referred to.

Chapter IV. Countries to which slaves are sent, whose institutions recognize the existence of domestic slavery.

Art. LXII. The contracting powers whose institutions recognize the existence of domestic slavery, and whose possessions, in consequence thereof, in or out of Africa, serve, in spite of the vigilance of the authorities, as places of destinations of African slaves, pledge themselves to prohibit their importation, transit and departure, as well as the trade in slaves. The most active and the strictest supervision shall be enforced at all places where the arrival, transit, and departure of African slaves take place.

Art. LXIII. Slaves set free under the provisions of the preceding article shall, if circumstances permit, be sent back to the country from whence they came. In all cases they shall receive letters of liberation from the competent authorities, and shall be entitled to their protection and assistance for the purpose of obtaining means of subsistence.

Art. LXIV. Any fugitive slave arriving at the frontier of any of the powers mentioned in Article LXII shall be considered free, and shall have the right to claim letters of release from the competent authorities.

Art. LXV. Any sale or transaction to which the slaves referred to in Articles LXIII and LXIV may have been subjected through circumstances of any kind whatsoever, shall be considered as null and void.

Art. LXVI. Native vessels carrying the flag of one of the countries mentioned in Article LXII, if there is any indication that they are employed in operations connected with the slave-trade, shall be subjected by the local authorities in the ports frequented by them to a strict examination of their crews and passengers both on arrival and departure. If African slaves are found on board, judicial proceedings shall be instituted against the vessel and against all persons who may be implicated. Slaves found on board shall receive letters of release through the authorities who have seized the vessel.

Art. LXVII. Penal provisions similar to those provided for by Article V shall be enacted against persons importing, transporting, and trading in African slaves, against the mutilators of male children, or adults, and those who traffic in them, as well as against their associates and accomplices.

Art. LXVIII. The signatory powers recognize the great importance of the law respecting the prohibition of the slave-trade sanctioned by His Majesty the Emperor of the Ottomans on the 4th (16th) of December, 1889 (22 Rebi-ul-Akhir, 1307), and they are assured that an active surveillance will be organized by the Ottoman authorities, especially on the west coast of Arabia and on the routes which place that coast in communication with the other possessions of His Imperial Majesty in Asia.

Art. LXIX. His Majesty the Shah of Persia consents to organize an active surveillance in the territorial waters and those off the coast of the Persian Gulf and Gulf of Oman which are under his sovereignty, and on the inland routes which serve for the transportation of slaves. The magistrates and other authorities shall, to this effect, receive the necessary powers.

Art. LXX. His Highness the Sultan of Zanzibar consents to give his most effective support to the repression of crimes and offenses committed by African slave-traders on land as well as at sea. The tribunals created for this purpose in the Sultanate of Zanzibar shall rigorously enforce the penal provisions mentioned in Article V. In order to render more secure the freedom of liberated slaves, both in virtue of the provisions of the present general act and of the decrees adopted in this matter by His Highness and his predecessors, a liberation office shall be established in Zanzibar.

Art. LXXI. The diplomatic and consular agents and the naval officers of the contracting powers shall, within the limits of existing conventions, give their assistance to the local authorities in order to assist in repressing the slave-trade where it still exists. They shall be entitled to be present at trials for slave-trading brought about at their instance, without, however, being entitled, to take part in the deliberations.

Art. LXXII. Liberation offices, or institutions in lieu thereof, shall be organized by the governments of the countries to which African slaves are sent, for the purposes specified in Article XVIII.

Art. LXXIII. The signatory powers having undertaken to communicate to one another all information useful for the repression of the slave-trade, the Governments whom the present chapter concerns shall periodically exchange with the other Governments statistical data relating to slaves intercepted and liberated, and to the legislative and administrative measures which have been taken for suppressing the slave-trade.

Chapter V. Institutions intended to insure the execution of the
general act.

Section I. Of the international maritime office.

Art. LXXIV. In accordance with the provisions of Article XXVII, an international office shall be instituted at Zanzibar, in which each of the signatory powers may be represented by a delegate.

Art. LXXV. The office shall be constituted as soon as three powers have appointed their representatives.

It shall draw up regulations fixing the manner of exercising its functions. These regulations shall immediately be submitted to the approval of such signatory powers as shall have signified their intention of being represented in this office. They shall decide in this respect within the shortest possible time.

Art. LXXVI. The expenses of this institution shall be divided in equal parts among the signatory powers mentioned in the preceding article.

Art. LXXVII. The object of the office at Zanzibar shall be to centralize all documents and information of a nature to facilitate the repression of the slave-trade in the maritime zone. For this purpose the signatory powers engage to forward within the shortest time possible:

1. The documents specified in Article XLI.

2. Summaries of the reports and copies of the minutes referred to in Article XLVIII.

3. The lists of the territorial or consular authorities and special delegates competent to take action as regards vessels seized according to the terms of Article XLIX.

4. Copies of judgments and condemnations in accordance with Article LVIII.

5. All information that may lead to the discovery of persons engaged in the slave-trade in the above-mentioned zone.

Art. LXXVIII. The archives of the office shall always be open to the naval officers of the signatory powers authorized to act within the limits of the zone defined by Article XXI, as well as to the territorial or judicial authorities, and to consuls specially designated by their Governments.

The office shall supply to foreign officers and agents authorized to consult its archives, translations into a European language of documents written in an oriental language.

It shall make the communications provided for in Article XLVIII.

Art. LXXIX. Auxiliary offices in communication with the office at Zanzibar may be established in certain parts of the zone, in pursuance of a previous agreement between the interested powers.

They shall be composed of delegates of these powers, and established in accordance with Articles LXXV, LXXVI, and LXXVIII.

The documents and information specified in Article LXXVII, so far

as they relate to a part of the zone specially concerned, shall be sent to them directly by the territorial and consular authorities of the region in question, but this shall not exempt the latter from the duty of communicating the same to the office at Zanzibar, as provided by the same article.

Art. LXXX. The office at Zanzibar shall prepare in the first two months of every year, a report of its own operations and of those of the auxiliary offices, during the past twelve months.

Section II. Of the exchange between the Governments of documents and information relating to the slave-trade.

Art. LXXXI. The powers shall communicate to one another, to the fullest extent and with the least delay that they shall consider possible:

1. The text of the laws and administrative regulations, existing or enacted by application of the clauses of the present general act;

2. Statistical information concerning the slave-trade, slaves arrested and liberated, and the traffic in fire-arms, ammunition, and alcoholic liquors.

Art. LXXXII. The exchange of these documents and information shall be centralized in a special office attached to the foreign office at Brussels.

Art. LXXXIII. The office at Zanzibar shall forward to it every year the report mentioned in Article LXXX, concerning its operations during the past year, and concerning those of auxiliary offices that may have been established in accordance with Article LXXIX.

Art. LXXXIV. The documents and information shall be collected and published periodically, and addressed to all the signatory powers. This publication shall be accompanied every year by an analytical table of the legislative, administrative, and statistical documents mentioned in Articles LXXXI and LXXXIII.

Art. LXXXV. The office expenses as well as those incurred in correspondence, translation, and printing, shall be shared by all the signatory powers, and shall be collected through the agency of the department of the foreign office at Brussels.

Section III. Of the protection of liberated slaves.

Art. LXXXVI. The signatory powers having recognized the duty of protecting liberated slaves in their respective possessions, engage to establish, if they do not already exist, in the ports of the zone determined by Article XXI, and in such parts of their possessions as may be places for the capture, passage and arrival of African slaves, such offices and institutions as may be deemed sufficient by them, whose business shall specially consist in liberating and protecting them in accordance with the provisions of Articles VI, XVIII, LII, LXIII and LXVI.

Art. LXXXVII. The liberation offices or the authorities charged with this service shall deliver letters of release and shall keep a register thereof.

In case of the denunciation of an act connected with the slave-trade, or one of illegal detention, or on application of the slaves themselves, the

said offices or authorities shall exercise all necessary diligence to insure the release of the slaves and the punishment of the offenders.

The delivery of letters of release shall in no case be delayed, if the slave be accused of a crime or offense against the common law. But after the delivery of the said letters an investigation shall be proceeded with in the form established by the ordinary procedure.

Art. LXXXVIII. The signatory powers shall favor, in their possessions, the foundation of establishments of refuge for women and of education for liberated children.

Art. LXXXIX. Freed slaves may always apply to the offices for protection in the enjoyment of their freedom.

Whoever shall have used fraudulent or violent means to deprive a freed slave of his letters of release or of his liberty, shall be considered as a slave-dealer.

Chapter VI. Measures to restrict the traffic in spirituous liquors.

Art. XC. Being justly anxious concerning the moral and material consequences to which the abuse of spirituous liquors subjects the native population, the signatory powers have agreed to enforce the provisions of articles XCI, XCII and XCIII within a zone extending from the 20th degree of North latitude to the 22d degree of South latitude, and bounded on the west by the Atlantic Ocean and on the east by the Indian Ocean and its dependencies, including the islands adjacent to the main land within 100 nautical miles from the coast.

Art. XCI. In the districts of this zone where it shall be ascertained that, either on account of religious belief or from some other causes, the use of distilled liquors does not exist or has not been developed, the powers shall prohibit their importation. The manufacture of distilled liquors shall be likewise prohibited there.

Each power shall determine the limits of the zone of prohibition of alcoholic liquors in its possessions or protectorates, and shall be bound to make known the limits thereof to the other powers within the space of six months.

The above prohibition can only be suspended in the case of limited quantities intended for the consumption of the non-native population and imported under the regime and conditions determined by each Government.

Art. XCII. The powers having possessions or exercising protectorates in those regions of the zone which are not subjected to the regime of the prohibition, and into which alcoholic liquors are at present either freely imported or pay an import duty of less than 15 francs per hectolitre at 50 degrees centigrade, engage to levy on such alcoholic liquors an import duty of 15 francs per hectolitre at 50 degrees centigrade, for three years after the present general act comes into force. At the expiration of this period the duty may be increased to 25 francs during a fresh period of three years. At the end of the sixth year it shall be submitted to re-

vision, for the purpose of then fixing, if possible, a minimum duty throughout the whole extent of the zone where the prohibition referred to in Article XCI is not in force.

The powers retain the right of maintaining and increasing the duties beyond the minimum fixed by the present article in those regions where they already possess that right.

Art. XCIII. Distilled liquors manufactured in the regions referred to in Article XCII, and intended for inland consumption, shall be subject to an excise duty.

This excise duty, the collection of which the powers engage to secure, as far as possible, shall not be less than the minimum import duty fixed by article XCII.

Art. XCIV. The signatory powers having possessions in Africa contiguous to the zone specified in Article XC engage to adopt the necessary measures for preventing the introduction of spirituous liquors within the territories of the said zone via their inland frontiers.

Art. XCV. The powers shall communicate to one another, through the office at Brussels, and according to the terms of Chapter V, information relating to the traffic in alcoholic liquors within their respective territories.

Chapter VII. Final Provisions.

Art. XCVI. The present general act repeals all contrary stipulations of conventions previously concluded between the signatory powers.

Art. XCVII. The signatory powers, without prejudice to the stipulations contained in Articles XIV, XXIII, and XCII, reserve the right of introducing into the present general act, hereafter and by common consent, such modifications or improvements as experience may prove to be useful.

Art. XCVIII. Powers who have not signed the present general act shall be allowed to adhere to it.

The signatory powers reserve the right to impose such conditions as they may deem necessary to their adhesion.

If no conditions shall be stipulated, adhesion implies acceptance of all the obligations and admission to all the advantages stipulated by the present general act.

The powers shall agree among themselves as to the steps to be taken to secure the adhesion of states whose cooperation may be necessary or useful in order to insure complete execution of the general act.

Adhesion shall be effected by a separate act. Notice thereof shall be given through the diplomatic channel to the Government of the King of the Belgians, and by that Government to all the signatory and adherent states.

Art. XCIX. The present general act shall be ratified within the shortest possible period, which shall not in any case exceed one year.

Each power shall address its ratification to the Government of the King of the Belgians, which shall give notice thereof to all the other powers that have signed the present general act.

The ratifications of all the powers shall remain deposited in the archives of the Kingdom of Belgium.

As soon as all of the ratifications shall have been furnished, or at the latest one year after the signature of the present general act, their delivery shall be recorded in a protocol which shall be signed by the representatives of all the powers that have ratified.

A certified copy of this protocol shall be forwarded to all the powers interested.

Art. C. The present general act shall come into force in all the possessions of the contracting powers on the sixtieth day, reckoned from the day on which the protocol provided for in the preceding article shall have been drawn up.

In witness whereof the respective plenipotentiaries have signed the present general act, and have affixed their seals.

Done at Brussels the 2d day of the month of July, 1890.

(Signatures)²²

The resolution passed by the Senate of the United States on January 11, 1892, ratifying the convention, contains the following peculiar provision:

"That the United States of America, having neither possessions nor protectorates in Africa, hereby disclaims any intention, in ratifying this treaty, to indicate any interest whatsoever in the possessions or protectorates established or claimed on that continent by the other powers, or any approval of the wisdom, expediency or lawfulness thereof, and does not join in any expressions in the said General Act which might be construed as such a declaration or acknowledgment; and, for this reason, that it is desirable that a copy of this resolution be inserted in the protocol to be drawn up at the time of the exchange of the ratifications of this treaty on the part of the United States."²³

A further Convention relating to the importation of intoxicating liquors into Africa was signed at Brussels June 8, 1899, and proclaimed by the United States February 6, 1901. It deals only with import duties and excise taxes on liquors.²⁴ A

²² Senate Documents, 2d Session, 61st Congress, 48, 1894 to 1899.

²³ Id. 1891.

²⁴ Senate Documents, 2d Session, 61st Congress, 48-1891.

further Convention on the same subject was signed at Brussels, November 3, 1906.²⁵

Another Convention for the formation of an association under the title, "International Union for the publication of Customs Tariffs" was concluded at Brussels on July 5, 1890, by representatives of thirty nations and proclaimed December 17, 1890. The purposes of the Union are expressed in Article 2 as follows:

"Art. II. The object of the Union is to publish, at the common expense, and to make known, as speedily and accurately as possible, the customs tariffs of the various States of the globe and the modifications that may, in future, be made in those tariffs."

It provides for the establishment of an International Bureau at Brussels and the publication of an "International Customs Bulletin."²⁶

The "Boxer" troubles in China caused the intervention of the leading Powers of Europe, Japan and the United States to preserve order and protect their legations at Peking. The final Protocol between these Powers and China was concluded at Peking on September 7, 1901, and provided for the payment by China of an indemnity of 450,000,000 Haikwan Taels for States, companies or societies and private individuals, including some Chinese, the punishment of certain persons connected with the uprising, the erection of monuments to certain persons who had been killed during the troubles, and formal expressions of regret by the Emperor of China for the assassination of the German and Japanese ministers. The parties to this Protocol were China, Germany, Austria-Hungary, Belgium, Spain, United States, France, Great Britain, Italy, Japan, The Netherlands, and Russia. These great Powers acted in concert as a League to Enforce Internal Peace in China during these troubles and to compel the payment of indemnities for the wrongs done after their termination.²⁸

A very necessary and important piece of international legis-

²⁵ Id. 1993.

²⁶ Id. 2214.

²⁸ Senate Documents, 2d Session, 61st Congress, 48, 2006.

lation is the "International Sanitary Convention which was concluded at Paris December 3, 1903, by the following signatory Powers: German Empire, Austria-Hungary, Belgium, Brazil, Spain, United States, France, Great Britain, Greece, Italy, Luxemburg, Montenegro, Netherlands, Persia, Portugal, Roumania, Russia, Servia, Switzerland, and Egypt. Its purpose is to prevent the spread of plague and cholera. As this field was more fully covered by the convention of Paris of 1912 which is given below in full it is not deemed necessary to make further mention of this one."²⁹

The traffic in African slaves is not the only one in human beings to shock the moral sense of enlightened people. Prostitution has claimed countless victims in Europe and America, as well as in other less highly organized parts of the earth. By the general act for the suppression of the African slave-trade the leading nations of Europe sought to protect the defenseless people of Africa. It was not necessary to go so far from home to find defenseless people needing protection from quite as vile traffickers as the slave-traders. Statistics showing the extent of the trade in white women and girls are not available, but it has been sufficient to attract the attention of the public authorities of Europe and America and to bring about an agreement for combined effort to repress the traffic. With this purpose in view the following convention was signed at Paris in 1904.

AGREEMENT BETWEEN THE UNITED STATES AND OTHER
POWERS FOR THE REPRESSION OF THE TRADE
IN WHITE WOMEN

Article 1. Each of the Contracting Governments agrees to establish or designate an authority who will be directed to centralize all information concerning the procurement of women or girls both in a view to their debauchery in a foreign country; that authority shall have the right to correspond directly with the similar service established in each of the other Contracting States.

Art. 2. Each of the Governments agree to exercise a supervision for the purpose of finding out, particularly in the stations, harbours of embarkation and on the journey, the conductors of women or girls intended for debauchery. Instructions shall be sent for that purpose to the offi-

²⁹ *Infra*, p. 383.

cials or to any other qualified persons, in order to procure, within the limits of the laws, all information of a nature to discover a criminal traffic.

The arrival of persons appearing evidently to be the authors, the accomplices or the victims of such a traffic will be notified, in each case, either to the authorities of the place of destination or to the interested diplomatic or consular agents, or to any other competent authorities.

Art. 3. The Governments agree to receive, in each case, within the limits of the laws, the declarations of women and girls of foreign nationality who surrender themselves to prostitution, with a view to establish their identity and their civil status and to ascertain who has induced them to leave their country. The information received will be communicated to the authorities of the country of origin of the said women or girls, with a view to their eventual return.

The Governments agree, within the limits of the laws and as far as possible, to confide temporarily and with a view to their eventual return, the victims of criminal traffic, when they are without any resources, to some institution of public or private charity or to private individuals furnishing the necessary guaranties.

The Governments agree also, within the limits of the laws to return to the country of origin, those of those women or girls who ask their return or who may be claimed by persons having authority over them. Return will be made only after reaching an understanding as to their identity and nationality, as well to the place and date of their arrival at the frontiers. Each of the Contracting Parties will facilitate the transit on his territory.

The correspondence relative to the return will be made, as far as possible, through the direct channel.

Art. 4. In case the woman or girl to be sent back can not pay herself the expenses of her transportation and she has neither husband, nor relations, nor guardian to pay for her the expenses occasioned by her return, they shall be borne by the country or the territory of which she resides as far as the nearest frontier or port of embarkation in the direction of the country of origin, and by the country of origin for the remainder.

Art. 5. The provisions of the above articles 3 and 4, shall not infringe upon the provisions of special conventions which may exist between the contracting Governments.

Art. 6. The Contracting Governments agree, within the limits of the laws, to exercise, as far as possible, a supervision over the bureaux or agencies which occupy themselves with finding places for women or girls in foreign countries.

Art. 7. The non-signatory States are admitted to adhere to the present Arrangement. For this purpose, they shall notify their intention, through

the diplomatic channel, to the French Government, which shall inform all the contracting States.

Art. 8. The present arrangement shall take effect six months after the date of the exchange of ratifications. In case one of the contracting Parties shall denounce it, that denunciation shall take effect only as regards that party and then twelve months only from the date of the day of the said denunciation.

Art. 9. The present arrangement shall be ratified and the ratifications shall be exchanged at Paris, as soon as possible.

In faith whereof the respective Plenipotentiaries have signed the present Agreement, and thereunto affixed their seals.

Done at Paris, the 18th May, 1904, in single copy, which shall be deposited in the archives of the Ministry of Foreign Affairs of the French Republic, and of which one copy, certified correct, shall be sent to each Contracting Party.

(Signatures).³⁰

The parties to this Agreement are Germany, Belgium, Denmark, Spain, France, Great Britain, Italy, The Netherlands, Portugal, Russia, Sweden and Norway, and Switzerland. On the invitation of France the United States adhered to it on June 6, 1908.

At a largely attended conference of representatives of the nations held at Rome in 1905 a convention was signed creating another permanent international agency called the International Institute of Agriculture. The Institute has been organized and all the nations participate in it. It performs a valuable, though quite inconspicuous, function in gathering and disseminating information concerning agricultural products, both vegetable and animal, and commerce in them. The following is a full copy of the convention:

CONVENTION FOR THE CREATION OF AN INTERNATIONAL INSTITUTE OF AGRICULTURE

Article 1. There is hereby created a permanent international institute of agriculture, having its seat in Rome.

Art. 2. The international institute of agriculture is to be a government institution, in which each adhering power shall be represented by delegates of its choice.

The institute shall be composed of a general assembly and a permanent committee, the composition and duties of which are defined in the ensuing articles.

³⁰ Senate Documents, 2d Session, 61st Congress, 48, 2131.

Art. 3. The general assembly of the institute shall be composed of the representatives of the adhering governments. Each nation, whatever be the number of its delegates, shall be entitled to a number of votes in the assembly which shall be determined according to the group to which it belongs, and to which reference will be made in article 10.

Art. 4. The general assembly shall elect for each session from among its members a president and two vice-presidents.

The sessions shall take place on dates fixed by the last general assembly and according to a programme proposed by the permanent committee and adopted by the adhering governments.

Art. 5. The general assembly shall exercise supreme control over the international institute of agriculture.

It shall approve the projects prepared by the permanent committee regarding the organization and internal workings of the institute. It shall fix the total amount of the expenditures and audit and approve the accounts.

It shall submit to the approval of the adhering governments modifications of any nature involving an increase of expenditure or an enlargement of the functions of the institute. It shall set the date for holding the sessions. It shall prepare its regulations.

The presence at the general assemblies of delegates representing two-thirds of the adhering nations shall be required in order to render the deliberations valid.

Art. 6. The executive power of the institute is intrusted to the permanent committee, which, under the direction and control of the general assembly, shall carry out the decisions of the latter and prepare propositions to submit to it.

Art. 7. The permanent committee shall be composed of members designated by the respective governments. Each adhering nation shall be represented in the permanent committee by one member. However, the representation of one nation may be intrusted to a delegate of another adhering nation, provided that the actual number of members shall not be less than fifteen.

The conditions of voting in the permanent committee shall be the same as those indicated in article 3 for the general assemblies.

Art. 8. The permanent committee shall elect from among its members for a period of three years a president and a vice-president, who may be reelected. It shall prepare its internal regulations, vote the budget of the institute within the limit of the funds placed at its disposal by the general assembly, and appoint and remove the officials and employees of its office.

The general secretary of the permanent committee shall act as secretary of the assembly.

Art. 9. The institute, confining its operations within an international sphere, shall—

(a) Collect, study, and publish as promptly as possible statistical, technical, or economic information concerning farming, both vegetable and animal products, the commerce in agricultural products, and the prices prevailing in the various markets;

(b) Communicate to parties interested, also as promptly as possible, all the information just referred to;

(c) Indicate the wages paid for farm work;

(d) Make known the new diseases of vegetables which may appear in any part of the world, showing the territories infected, the progress of the disease, and, if possible, the remedies which are effective in combating them.

(e) Study questions concerning agricultural cooperation, insurance, and credit in all aspects; collect and publish information which might be useful in the various countries in the organization of the works connected with agricultural cooperation, insurance, and credit;

(f) Submit to the approval of the governments, if there is occasion for it, measures for the protection of the common interests of farmers and for the improvement of their condition, after having utilized all the necessary sources of information, such as the wishes expressed by international or other agricultural congresses or congresses of sciences applied to agriculture, agricultural societies, academies, learned bodies, etc.

All questions concerning the economic interests, the legislation, and the administration of a particular nation shall be excluded from the consideration of the institute.

Art. 10. The nations adhering to the institute shall be classed in five groups, according to the place which each of them thinks it ought to occupy.

The number of votes which each nation shall have and the number of units of assessment shall be established according to the following gradations:

Groups of nations	Number of votes	Units of assessment
I.	5	16
II.	4	8
III.	3	4
IV.	2	2
V.	1	1

In any event the contribution due per unit of assessment shall never exceed a maximum of 2,500 francs.

As a temporary provision the assessment for the first two years shall not exceed 1,500 francs per unit.

Colonies may, at the request of the nations to which they belong, be admitted to form part of the institute on the same conditions as the independent nations.

Art. 11. The present Convention shall be ratified and the ratifications exchanged as soon as possible by depositing them with the Italian Government.

In faith whereof the respective Plenipotentiaries have signed the present Convention and have hereunto affixed their seals.

Done at Rome the 7th of June one thousand nine hundred and five, in a single original, deposited with the Ministry of Foreign Affairs of Italy, of which certified copies shall be sent through the diplomatic channel to the contracting States.

(Signatures)⁸¹

This Convention was signed for Italy, Montenegro, Russia, Argentine Republic, Roumania, Servia, Belgium, Salvador, Portugal, Mexico, Luxemburg, Switzerland, Persia, Japan, Ecuador, Bulgaria, Denmark, Spain, France, Sweden, The Netherlands, Greece, Uruguay, Germany, Cuba, Austria-Hungary, Norway, Egypt, Great Britain, Guatemala, Ethiopia, Nicaragua, United States, Brazil, Costa Rica, Chile, Peru, China, Paraguay, Turkey.

A General Act was signed at Algeciras April 7, 1906 by representatives of Germany, Austria-Hungary, Belgium, Spain, United States, France, Great Britain, Italy, Morocco, The Netherlands, Portugal, Russia and Sweden for the purpose of maintaining order in Morocco. It provides for the organization of a police force under the instruction of Spanish and French officers of not more than 2,500 nor less than 2,000 men and of an Inspector-General to be appointed by the Swiss Federal Government from the superior officers of the Swiss army. It forbids the importation and sale of arms of war, parts of guns, ammunition of any nature, loaded or unloaded, powder, saltpeter, gun cotton, nitroglycerin, and all compositions destined exclusively for the manufacture of ammunition, except for the Sultan's troops and sporting and high-priced arms to be admitted under regulations prescribed. It also provides for the establishment of the State Bank of Morocco, to be the disbursing treasury of the Empire, with its home office at Tangier, and branches and agencies in the principal cities of Morocco. The Bank is governed by the French law. The Banks of the German Empire, England, Spain and France, with the approval of their governments, each appoint a Censor of the Bank to supervise its operations. The initial

⁸¹ Senate Documents, 2d Session, 61st Congress, 48, 2140.

capital of the bank is to be divided among the signatory powers. Provision is also made for improvements in the methods of collecting the revenues of the government, and for new taxes. Restrictions are placed on franchises for public services, and the Signatory Powers reserve to themselves supervision of the making of contracts for public works. The effect of the Act is to place Morocco under the general supervision of the Signatory Powers, and it goes quite minutely into details in reference to the matters above mentioned, but still leaves nominal sovereignty in the Sultan.³² The act is very long, containing 123 articles, and does not appear to be of sufficient general interest to be copied here. It does not invite adhesion by other nations but is merely a treaty between the signatory powers.

On November 29, 1906, there was signed at Brussels an agreement entered into by eighteen nations respecting the unification of the pharmacopœial formulæ for potent drugs. It contains a long list of Latin names of drugs with directions regarding their preparation and strength. In the Process-verbal at the end of it are numerous reservations by the different powers. The matter of the convention appears too technical to be of general interest.³³

On December 9th, 1907, a convention was signed at Rome establishing an International Office of Public Hygiene at Paris, a copy of which is given below. This made the second permanent international office to be established at Paris to exercise functions for and under the direction of all the nations of the world that should elect to take advantage of it.

ARRANGEMENT FOR THE ESTABLISHMENT OF THE INTERNATIONAL OFFICE OF PUBLIC HEALTH

The Governments of Belgium, Brazil, Spain, the United States, the French Republic, Great Britain and Ireland, Italy, the Netherlands, Portugal, Russia, Switzerland, and the Government of His Highness the Khedive of Egypt, deeming it expedient to organize the International Office of Public Hygiene, referred to in the Paris Sanitary Convention of December 3, 1903, have resolved to conclude an arrangement to that effect and agreed upon the following:

³² Senate Documents, 2d Session, 61st Congress, 48-2157.

³³ Senate Documents, 2d Session, 61st Congress, 48, 2209.

Article I. The High Contracting Parties engage to found and maintain an International Office of Public Hygiene with headquarters at Paris.

Art. II. The Office will perform its functions under the authority and supervision of a Committee composed of delegates of the contracting Governments. The membership and rights and duties of the Committee, as well as the organization and powers of the said Office are determined by the organic by-laws which are annexed to the present arrangement and are considered as forming an integral part thereof.

Art. III. The costs of installation, as well as the annual expenses for the conduct and maintenance of the Office shall be covered by the quotas of the contracting States determined in accordance with the provisions of the by-laws referred to in Article II.

The sums representing the quotas of the several contracting States shall be deposited by the said States through the Ministry of Foreign Affairs of the French Republic, at the beginning of every year in the "Caisse des dépôts et consignations" at Paris, from which they shall be drawn as needed against warrants of the Director of the Office.

Art. V. The High Contracting Parties reserve the right to make, by joint agreement, in the present arrangement any change of which the usefulness shall have been demonstrated by experience.

Art. VI. Governments that have not signed the present arrangement are, on their request, admitted to adhere thereto. Their adhesion shall be notified, through the diplomatic channel, to the Royal Government of Italy, and, by the latter, to the other Contracting Governments; it will imply a pledge to contribute to the payment of the expenses of the Office in the manner referred to in Article III.

Art. VII. The present arrangement shall be ratified and the ratifications shall be deposited at Rome as soon as possible; it shall be put into operation from the date on which the deposit of ratifications shall have been effected.

Art. VIII. The present arrangement is concluded for a term of seven years. At the expiration of that period, it shall continue in force for new periods of seven years between the States that shall not have notified, one year before the expiration of each period, their intention to terminate the effects so far as they are concerned.

In faith whereof the undersigned, duly empowered thereto, have drawn up the present arrangement to which they have affixed their seals.

Done at Rome the 9th of December, 1907, in one copy which shall remain deposited in the archives of the Royal Government of Italy and duly certified copies thereof shall be delivered, through the diplomatic channel, to the contracting Parties.

(Signatures)³⁴

³⁴ Senate Documents, 2d Session, 61st Congress, 48, 2214.

ANNEX

Organic By-Laws of the International Office of Public Hygiene.

Article I. There is established in Paris an International Office of Public Hygiene under the States which accept participation in its operation.

Art. II. The Office cannot in any way meddle in the administration of the several States.

It is independent of the authorities of the country in which it is placed.

It corresponds directly with the higher health authorities of the several countries and with the Boards of Health.

Art. III. The Government of the French Republic shall, on the application of the International Committee referred to in Article VI, take such steps as may be requisite to have the Office recognized as an institution of public utility.

Art. IV. The main object of the Office is to collect and bring to the knowledge of the participating States facts and documents of a general character concerning public health and especially regarding infectious diseases, notably the cholera, plague and yellow fever, as well as the measures taken to check these diseases.

Art. V. The Government shall inform the Office of the measures taken by them toward the enforcement of the international sanitary conventions.

Art. VI. The Office is placed under the authority and supervision of an International Committee consisting of technical representatives designated by the participating States in the proportion of one representative for each State.

Each State is allowed a number of votes inversely proportioned to the number of the class to which it belongs as regards its participation in the expenses of the Office. (See Article XI.)

Art. VII. The Committee of the Office meets periodically at least once a year; the length of its session is unlimited.

The members of the Committee elect, by secret ballot, a chairman whose term of office shall be three years.

Art. VIII. The business of the office is conducted by a salaried staff including:

A Director;

A Secretary General,

such forces as may be necessary to perform the work of the Office.

The personnel of the Office shall not be permitted to fill any other salaried office.

The Director and Secretary General shall be appointed by the Committee.

The Director shall attend the meetings of the Committee in an advisory capacity.

The appointment and dismissal of employés of all classes appertain to the Director and shall be reported by him to the Committee.

Art. IX. The information collected by the Office shall be brought to the knowledge of the particular States by means of a Bulletin or of special communications addressed to them either in regular course or at their request.

In addition, the Office shall show periodically the results of its labors in official reports to be communicated to the participating Governments.

Art. X. The Bulletin, which shall be issued at least once a month, shall include especially:

1. The laws and general or local regulations promulgated in the several countries in regard to contagious diseases;

2. Information concerning the progress of infectious diseases;

3. Information concerning the work done or measures taken toward the sanitation of localities.

4. Statistics concerning public health.

5. Notices of publications.

The official language of the Office and Bulletin shall be the French language. The Committee may order parts of the Bulletin to be printed in other languages.

Art. XI. The expenses necessary for the performance of the duties of the Office, estimated at 150,000 francs per annum, shall be defrayed by the States signatory to the Convention, their quotas being determined according to the following classes:

First Class: Brazil, Spain, The United States, France, Great Britain, British India, Italy, Russia, at the rate of 25 units;

Second class, at the rate of 20 units;

Third class, Belgium, Egypt, the Netherlands, at the rate of 15 units;

Fourth class, Switzerland, at the rate of 10 units;

Fifth class, at the rate of 5 units;

Sixth class, at the rate of three units.

This sum of 150,000 francs cannot be exceeded except by consent of the signatory Powers.

Every State is at liberty to have itself entered in a higher class at some future time.

The States that may hereafter adhere to the Convention shall select the class in which they wish to be entered.

Art. XII. A sum intended to form a reserve fund shall be taken from the annual resources. The total sum of said reserve, which cannot exceed the amount of the annual budget, shall be invested in first class State securities.

Art. XIII. The members of the Committee shall receive, out of the working funds of the Office, an allowance for traveling and other expenses. They shall also receive an attendance counter for each meeting which they attend.

Art. XIV. The Committee shall fix the amount to be set aside annu-

ally from its budget for a fund intended to secure a retirement pension for the Office force.

Art. XV. The Committee shall draw up its annual estimates and shall approve the account of expenditures. It shall make the organic regulations governing the personnel, as well as the arrangements necessary for the performance of the duties of the office.

The regulations as well as the arrangements shall be reported by the Committee to the participant States and cannot be modified without their assent.

Art. XVI. A statement of the financial management of the Office shall be submitted annually to the participant States at the close of the fiscal year.

(Signatures)⁸⁵

⁸⁵ Senate Documents, 2d Session, 61st Congress, 48, 2216.

CHAPTER IV

THE UNIVERSAL POSTAL UNION

The Persians back in the time of Cyrus had the first postal service that we have any account of. Augustus established posts in the Roman Empire and the Great Kahn, according to Marco Polo, had a very efficient system in China when he visited it. The Peruvians under the Incas, though without a written language, transmitted dispatches throughout the empire by postrunners carrying orders and information expressed in the quipu by threads of various lengths and colors, knotted and combined in various ways. Along their great highways at intervals were stations for the accommodation of the runners carrying dispatches.¹ The old Manchu Code of China required the carriers of dispatches to proceed at the rate of 300 *lee* in a day and night on pain of blows with the bamboo increasing in number with each hour of delay.² The beginning of the postal system in England is assigned to the year 1481, when relays of riders and post horses were established to carry news. The first chief postmaster of England was appointed by Queen Elizabeth in 1581.³

The development of the postal service started and continued in each country separately until the year 1817, when a postal convention was entered into by the governments of The Netherlands and France, which appears to be the first treaty of the kind. After that, from time to time and after quite long intervals, other similar treaties were made by European states. The first treaty for the establishment of a general postal union was concluded at Berne on October 9, 1874, between the following nations: Germany, Austria-Hungary, Belgium, Denmark, Egypt, Spain, United States, France, Great

¹ Prescott, Conquest of Peru, 1-88.

² Penal Code of China, Sec. 238.

³ Bridgman, World Law, 17.

Britain, Greece, Italy, Luxemburg, The Netherlands, Portugal, Rumania, Russia, Servia, Sweden & Norway, Switzerland and Turkey. Afterward by subsequent conventions the union was enlarged and after it had become general a revised convention was concluded at Washington June 15, 1897. Another convention was signed at Rome, May 26, 1906, which included The United States and its island possessions, Argentine Republic, Austria, Belgium, Bolivia, Bosnia-Herzegovina, Brazil, Bulgaria, Chile, China, Colombia, Kongo, Korea, Costa Rica, Crete, Cuba, Denmark and its colonies, Dominican Republic, Egypt, Ecuador, Spain and its colonies, Ethiopia, France and its colonies and dependencies, Great Britain and its colonies and dependencies, including India, Australia, Canada, New Zealand, and South Africa, Greece, Guatemala, Hayti, Honduras, Hungary, Italy and its colonies, Japan, Liberia, Luxemburg, Mexico, Montenegro, Nicaragua, Norway, Panama, Paraguay, The Netherlands, and its colonies, Peru, Persia, Portugal and its colonies, Roumania, Russia, Salvador, Servia, Siam, Sweden, Switzerland, Tunis, Turkey, Uruguay, and Venezuela. The text of the convention is as follows:

UNIVERSAL POSTAL CONVENTION

Article 1. Definition of the Postal Union.

The countries between which the present convention is concluded, as well as those which may adhere to it hereafter, form, under the title of Universal Postal Union, a single postal territory for the reciprocal exchange of correspondence between their post offices.

Article 2. Articles to which the Convention applies.

The stipulations of this Convention extend to letters, post cards, both single and with reply paid, printed papers of every kind, commercial papers, and samples of merchandise originating in one of the countries of the union and intended for another of those countries. They also apply to the exchange by mail of the articles above mentioned between the countries of the union and countries foreign to the union, whenever the services of two of the contracting parties at least are used for that exchange.

Article 3. Conveyance of mails between contiguous countries; third services.

1. The postal administrations of contiguous countries, or countries able to correspond directly with each other without availing themselves of the services of a third administration, determine, by common consent,

the conditions of the conveyance of the mails which they exchange across the frontier or from one frontier to the other.

2. In the absence of any contrary agreement, the direct sea conveyance between two countries by means of packets or vessels depending upon one of them is considered as a third service; and this conveyance, as well as any performed between two offices of the same country, by the medium of sea or territorial services maintained by another country, is regulated by the stipulations of the following article.

Article 4. Transit Rates.

1. The right of transit is guaranteed throughout the entire territory of the union.

2. Consequently the several postal administrations of the union may send reciprocally, through the medium of one or of several of them, either closed mails or articles in open mail, according to the needs of the traffic and the convenience of the postal service.

3. Articles exchanged in closed mails between two administrations of the union, by means of the services of one or of several other administrations of the union, are subject to the following transit charges to be paid to each of the countries traversed or whose services participate in the conveyance, viz:

1° For territorial transits:

a. 1 franc 50 centimes per kilogram of letters and post cards and 20 centimes per kilogram of other articles, if the distance traversed does not exceed 3000 kilometers;

b. 3 francs per kilogram of letters and post cards and 40 centimes per kilogram of other articles, if the distance traversed exceeds 3000 kilometers and does not exceed 6000 kilometers;

c. 4 francs 50 centimes per kilogram of letters and post cards and 60 centimes per kilogram of other articles, if the distance traversed exceeds 6000 kilometers but does not exceed 9000 kilometers;

d. 6 francs per kilogram of letters and post cards and 80 centimes per kilogram of other articles, if the distance traversed exceeds 9000 kilometers.

2° For sea transits:

a. 1 franc 50 centimes per kilogram of letters and post cards and 20 centimes per kilogram of other articles, if the distance traversed does not exceed 300 nautical miles. Sea conveyance over a distance not exceeding 300 nautical miles is, however, gratuitous if the administration concerned already receives, on account of the mails conveyed, the remuneration applicable to territorial transit;

b. 4 francs per kilogram of letters and post cards and 50 centimes per kilogram of other articles, exchanged over a distance exceeding 300 nautical miles between European countries, between Europe and ports of Africa and Asia on the Mediterranean and Black Sea, or between one

of these ports and another, and between Europe and North America. The same rates are applicable to conveyance, by service to the whole union, between two ports of a single state, as well as between the ports of two states served by the same line of packets when the sea transit involved does not exceed 1500 nautical miles;

c. 8 francs per kilogram of letters and post cards and 1 franc per kilogram of other articles, for all transits not included in the categories given above in paragraphs a and b.

In the case of a sea conveyance effected by two or more administrations, the charges paid for the entire transit cannot exceed 8 francs per kilogram of letters and post cards and 1 franc per kilogram of other articles; these charges are, when occasion arises, shared between the administrations participating in the service, in proportion to the distances traversed, without prejudice to any other arrangement which may be made between the parties interested.

4. Correspondence exchanged in open mail between two administrations of the union are subject to the following transit charges per article, and irrespective of weight or destination, namely; letters, 6 centimes each; post cards 2½ centimes each; other articles 2½ centimes each.

5. The transit rates specified in the present article do not apply to conveyance within the union by means of extraordinary services specially established or maintained by one administration at the request of one or several other administrations. The conditions of this category of conveyance are regulated by mutual consent between the administrations concerned.

Moreover, in all cases where the transit, either by land or sea, is at present gratuitous or subject to more advantageous conditions, such state of things is maintained.

Nevertheless, territorial transit services exceeding 3000 kilometers, may profit by the provisions of paragraph 3 of the present article.

6. The expenses of transit are borne by the administration of the country of origin.

7. The general accounting for these expenses takes place on the basis of statements prepared once in every six years, during a period of twenty-eight days to be determined in the detailed regulations provided for in Article 20 hereafter.

From the period between the date on which the convention of Rome comes into force and the date on which the transit statistics mentioned in the detailed regulations provided for in Article 20 become operative, transit rates will be paid in accordance with the stipulations of the convention of Washington.

8. The articles mentioned in paragraph 3 and 4 of Article 11 hereafter, the reply halves of double post cards returned to the country of origin, articles redirected or missent, undelivered articles, advices of delivery,

post-office money orders, and all other documents relative to the postal service are exempt from all charges for territorial or sea transit.

9. When the annual balance of transit accounts between two administrations does not exceed 1000 francs, the debtor administration is relieved of all payment on that account.

Article 5. Rates of Postage and General Conditions.

1. The rates of postage for the conveyance of postal articles throughout the entire extent of the union, including their delivery at the residence of the addressees in the countries of the union where a delivery is or shall be organized, are fixed as follows:

1° For letters, 25 centimes in case of prepayment, and double that amount in the contrary case, for each letter not exceeding 20 grams in weight; and 15 centimes in case of prepayment, and double that amount in the contrary case for every weight of 20 grams or fraction of 20 grams above the initial weight of 20 grams;

2° For post cards, in case of prepayment, 10 centimes for single cards or for each of two halves of reply post cards, and double that amount in the contrary case;

3° For printed papers of every kind, commercial papers, and samples of merchandise, 5 centimes for each article or packet bearing a particular address and for every weight of 50 grams or fraction of 50 grams, provided that such article or packet does not contain any letter or manuscript note having the character of actual and personal correspondence, and that it be made up in such a manner as to admit of its being easily examined.

The charge on commercial papers cannot be less than 25 centimes per packet, and the charge on samples cannot be less than 10 centimes per packet.

2. In addition to the rates fixed by the preceding paragraph there may be levied:

1° For every article subject to the sea-transit charges prescribed in paragraph 3, 2°, c, of Article 4, and in all the relations to which these transit rates are applicable, a uniform surtax which may not exceed 25 centimes per single rate for letters, 5 centimes per post card, and 5 centimes per 50 grams or fraction of 50 grams for other articles:

2° For every article conveyed by means of services maintained by administrations foreign to the union, or of extraordinary services in the union giving rise to special expenses, a surcharge in proportion to those expenses.

When the rate of prepayment for the single post card comprises one or other of the surcharges authorized in the two preceding paragraphs, the same rate is applicable to each half of the reply-paid post card.

3. In case of insufficient prepayment, correspondence of every kind is liable to a charge equal to double the amount of the deficiency, to be

paid by the addressees; but that charge may not exceed that which is levied in the country of destination on unpaid correspondence of the same nature, weight, and origin.

4. Articles other than letters and post cards must be prepaid at least partly.

5. Packets of samples of merchandise may not contain any article having a salable value; they must not exceed 350 grams in weight, or measure more than 30 centimeters in length, 20 centimeters in breadth, and 10 centimeters in depth, or, if they are in the form of a roll, 30 centimeters in length and 15 centimeters in diameter.

6. Packets of commercial papers and printed papers may not exceed 2 kilograms in weight, or measure more than 45 centimeters in any direction. Packets in the form of a roll may, however, be allowed to pass through the post so long as they do not exceed 10 centimeters in diameter and 75 centimeters in length.

7. Stamps or forms of prepayment obliterated or not, as well as all printed papers constituting the sign of a monetary value, save the exceptions authorized by the detailed regulations provided for in Article 20 of the present convention, are excluded from transmission at the reduced rate.

Article 6. Registered Articles; Return Receipts; Requests for Information.

1. The articles specified in Article 5 may be registered.

The reply halves of reply-paid post cards cannot, however, be registered by the original senders of such cards.

2. Every registered article is liable, at the charge of the sender:

1° To the ordinary prepaid rate of postage on the article, according to its nature.

2° To a fixed registration fee of 25 centimes at most, including a receipt given to the sender.

3. The sender of a registered article may obtain an advice of the delivery of such article, by paying, at the time when he asks for such an advice, a fixed fee of 25 centimes at most. The same fee may be charged for inquiries concerning registered articles, if the sender has not already paid the special fee for an advice of delivery.

Article 7. Articles marked with Trade Charges.

1. Registered articles may be sent marked with trade charges to be collected on delivery between countries of which the administrations agree to provide this service.

These articles are subject to the same regulations and rates as registered articles.

The maximum trade charge which may be collected on any one registered article is fixed at 1000 francs or at the equivalent of that sum.

2. In the absence of any contrary agreement between the administra-

tions of the countries concerned, the amount collected from the addressee is to be transmitted to the sender by means of a money order, after deducting a commission of 10 centimes for the service of collection, and the ordinary rate chargeable for money orders calculated on the amount of the balance.

The amount of an undeliverable money order of this kind remains at the disposal of the administration of the country in which the article marked with a trade charge originated.

3. For the loss of a registered article marked with a trade charge the responsibility of the postal service is fixed under the conditions laid down in article 8 hereafter for registered articles not marked with trade charges.

After the delivery of the article the administration of the country of destination is responsible for the amount of the trade charges, unless it can be proved that the conditions prescribed for such articles by the detailed regulations contemplated in Article 20 of the present convention have not been fulfilled. Nevertheless the omission from the letter bill of the entry "Remb." and of the amount of the trade charge does not affect the responsibility of the administration of the country of destination for failing to collect the amount.

Article 8. Responsibility for Registered Articles.

1. In case of the loss of a registered article, and except in cases beyond control, the sender, or, at the request of the sender, the addressee, is entitled to an indemnity of 50 francs.

2. Countries prepared to take risks arising from causes beyond control are authorized to collect from the sender on that account a supplementary rate of not more than 25 centimes on each registered article.

3. The obligation of paying the indemnity rests with the administration to which the dispatching office is subordinate. To that administration is reserved a remedy against the administration responsible, that is to say, against the administration on the territory or in the service of which the loss took place.

In case of the loss, under circumstances beyond control, on the territory or in the service of a country undertaking the risks mentioned in the preceding paragraph, of a registered article sent from another country, the country where the loss occurred is responsible for it to the dispatching office, if the latter undertakes risks in cases beyond control in dealing with its own public.

4. Until the contrary be proved, the responsibility rests with the administration which, having received the article without making any observation, cannot establish the delivery to the addressee or the regular transfer to the following administration, as the case may be. For articles addressed "Poste Restante" or held at the disposition of the addressees, the responsibility ceases on delivery to a person who has proved his identity according to the rules in force in the country of destination, and

whose name and description correspond to those indicated in the address.

5. The payment of the indemnity by the dispatching office ought to take place as soon as possible, and at latest within a year of the date of the application. The responsible office is bound to refund to the dispatching office, without delay, the amount of the indemnity paid by the latter.

The office of origin is authorized to make payment to the sender on account of the office, whether intermediate or of destination, which, after application has been made in due course, has let a year pass without settling the matter. Moreover, in cases where an office whose responsibility is duly established has at the outset declined to pay the indemnity, such office must take upon itself, in addition to the indemnity, the subsidiary expenses resulting from the unwarranted delay in payment.

6. It is understood that the application for an indemnity is only entertained if made within a year of the posting of the registered article; after this term the applicant has no right to any indemnity.

7. If the loss has occurred in course of conveyance without its being possible to ascertain on the territory or in the service of what country the loss took place, the administrations concerned bear the loss in equal shares.

8. Administrations cease to be responsible for registered articles for which the owners have given a receipt and accepted delivery.

Article 9. Withdrawal of Articles, Correction of Address, Etc.

1. The sender of a letter or other article can have it withdrawn from the post or have its address altered, so long as such article has not been delivered to the addressee.

2. The request for such withdrawal is sent by mail or by telegraph at the expense of the sender, who must pay as follows:

1° For every request by mail, the amount payable for a registered single letter;

2° For every request by telegraph, the charge for a telegram according to the ordinary tariff.

3. The sender of a registered article marked with a trade charge can, under the conditions laid down for requests for alteration of address, demand the total or partial cancelling of the amount of the trade charge.

4. The stipulations of this article are not obligatory for countries of which the legislation does not permit the sender to dispose of an article in its course through the post.

Article 10. Fixing of Rates in Money other than the Franc.

Those countries of the union which have not the franc for their monetary unit fix their charges at the equivalents, in their respective currencies, of the rates determined by the various articles of the present convention. Such countries have the option of rounding fractions in conformity with the table inserted in the detailed regulations mentioned in Article 20 of the present convention.

The administrations which maintain post offices forming part of the union in non-union countries fix their rates in the local currency, in the same manner. When two or several administrations maintain such offices in the same non-union country, the local equivalents to be adopted by all such offices are fixed by mutual arrangement between the administrations concerned.

Article 11. Prepayment; Reply Coupons; Exemptions from Postage.

1. Prepayment of postage on every description of article can be effected only by means of postage stamps valid in the country of origin for the correspondence of private individuals. It is not, however, permitted to make use, in the international service, of postage stamps produced with an object special and peculiar to the country of issue, such as the so-called commemorative postage stamps of temporary validity.

Reply post cards bearing postage stamps of the country in which the cards were issued are considered as duly prepaid, as also are newspapers or packets of newspapers without postage stamps but with the superscription "Abonnements poste" (subscription by mail), which are sent in virtue of the special arrangement for newspaper subscriptions, provided for in Article 19 of the present convention.

2. Reply coupons can be exchanged between the countries of which the administrations have agreed to participate in such exchange. The minimum selling price of a reply coupon is 28 centimes, or the equivalent of this sum in the money of the country which sells it.

This coupon is exchangeable in all countries parties to the agreement for a postage stamp of 25 centimes or the equivalent of that sum in the money of the country where the exchange is requested. The detailed regulations contemplated in Article 20 of the convention determine the other conditions of this exchange, and in particular the intervention of the international bureau in manufacturing, supplying and accounting for the coupons.

3. Official correspondence relative to the postal service exchanged between postal administrations, between these administrations and the international bureau, and between post offices in union countries, is exempt from prepayment by means of ordinary postage stamps, and is free from liability to charge.

4. The same privilege is accorded to correspondence concerning prisoners of war, dispatched or received, either directly or as intermediary, by the special information offices established on behalf of such persons, in belligerent countries or in neutral countries which have received belligerents on their territories.

Correspondence intended for prisoners of war or dispatched by them is likewise exempt from postal charges, not only in the countries of origin and destination, but in intermediary countries.

Belligerents received and held in a neutral country are assimilated to prisoners of war, properly so called, in so far as the application of the above-mentioned stipulations is concerned.

5. Articles posted on the high seas in the letter box on board a vessel or placed in the hands of postal agents on board or the commanders of ships may be prepaid by means of the postage stamps, and according to the tariff of the country to which the said vessel belongs or by which it is maintained. If the mailing on board takes place during the stay at one of the two terminal points of the voyage or at any intermediate port of call, prepayment can only be effected by means of the postage stamps and according to the tariff of the country in the waters of which the vessel happens to be.

Article 12. Postage Kept by Collecting Country.

1. Each administration keeps the whole of the sums which it collects by virtue of the foregoing Articles 5, 6, 7, 10 and 11, exceptions being made in the case of the credit due for the money orders referred to in paragraph 2 of Article 7, and also in regard to reply coupons (Article 11).

2. Consequently there is no necessity under this head for any accounts between the several administrations of the union, subject always to the reservations made in paragraph 1 of the present article.

3. Letters and other postal articles cannot be subjected, either in the country of origin or in that of destination, to any postal tax or postal fee at the expense of the senders or addressees other than those contemplated in the articles above mentioned.

Article 13. Special-Delivery Articles.

1. At the request of the senders, all classes of articles are delivered at the addresses by a special messenger immediately on arrival, in those countries of the union which consent to undertake this service in their reciprocal relations.

2. Such articles, which are marked "express" are subject to a special charge for delivery; this charge is fixed at 30 centimes, and must be fully paid in advance by the sender, in addition to the ordinary postage. It belongs to the administration of the country of origin.

3. When an article is destined for a place where there is no post office authorized to deliver correspondence by express messenger, the postal administration of the country of destination can levy an additional charge up to the amount of the fee fixed for express delivery in its inland service, less the fixed charge paid by the sender, or its equivalent in the money of the country which levies this additional charge.

The additional charge provided for above is recoverable in case of redirection or nondelivery, and is retained by the administration which has raised it.

4. "Express" articles upon which the total amount of the charges payable in advance has not been prepaid are delivered by the ordinary means,

unless they have been treated as expressed by the office of origin.

Article 14. Reforwarding; Undelivered Articles.

1. No additional postage is charged for the reforwarding of postal articles within the union.

2. Undelivered articles do not, when returned, give rise to the restitution of the transit charges due to intermediate administrations for the previous conveyance of such correspondence.

3. Unpaid letters and post cards and insufficiently paid articles of every description, which are returned to the country of origin as redirected or as undeliverable, are liable, at the expense of the addressees or senders, to the same rates as similar articles addressed directly from the country of the first destination to the country of origin.

Article 15. Mails exchanged with Warships.

1. Closed mails may be exchanged between the post offices of any one of the contracting countries and the commanding officers of naval divisions or ships of war of the same country stationed abroad, or between the commanding officers of one of those naval divisions or ships of war and the commanding officer of another division or ship of the same country, through the medium of the sea or land services maintained by other countries.

2. Articles of every description inclosed in these mails must consist exclusively of such as are addressed to or sent by the officers and crews of the ships to or from which the mails are forwarded; the rates and conditions of dispatch applicable to them are determined, according to its internal regulations, by the postal administration of the country to which the ships belong.

3. In the absence of any arrangement to the contrary between the offices concerned, the post office which receives or dispatches the mails in question is accountable to the intermediate offices for transit charges calculated in accordance with the stipulations of article 4.

Article 16. Prohibitions.

1. Commercial papers, samples, and printed papers which do not fulfill the conditions laid down for articles of these categories in Article 5 of the present convention and in the regulations contemplated in Article 20 are not to be forwarded.

2. If occasion arise, these articles are sent back to the post office of origin and returned, if possible, to the sender, save where, in the case of articles prepaid at least partially, the administration of the country of destination is authorized by its laws or by its internal regulations to deliver them.

3. It is forbidden:

1° To send by post:

a. Samples and other articles which, from their nature, may expose the postal officials to danger or soil or damage the correspondence;

b. Explosive, inflammable, or dangerous substances; animals and insects, living or dead, except in the cases provided for in the regulations contemplated in Article 20 of the convention.

2° To insert in ordinary or registered correspondence, consigned to the post:

a. Coin;

b. Articles liable to customs duty;

c. Articles of gold and silver, precious stones, jewelry and other precious articles, but only where their insertion or transmission is forbidden by the legislation of the countries concerned;

d. Any articles whatsoever of which the importation or circulation is prohibited in the country of destination.

4. Packets falling under the prohibitions of the foregoing paragraph 3, which have been erroneously admitted to transmission, should be returned to the post office of origin, except in cases where the administration of the country of destination is authorized by its laws or by its internal regulations to dispose of them otherwise.

Explosive, inflammable, or dangerous substances, however, are not returned to the country of origin; they are destroyed on the spot under the direction of the administration which has detected their presence.

5. The right is, moreover, reserved to the government of every country of the union to refuse to convey over its territory, or to deliver, articles passing at reduced rates in regard to which the laws, ordinances, or decrees which regulate the conditions of their publication or circulation in that country have not been complied with, or correspondence of any kind bearing ostensibly inscriptions, designs, etc., forbidden by the legal enactments or regulations in force in the same country.

Article 17. Regulations with Countries Outside the Union.

1. Offices of the Union which have relations with countries situate outside the Union are to lend their assistance to all the other offices of the Union:

1° For the transmission, by their services, either in open mail or in closed mails, if this method of transmission is admitted by mutual agreement between the offices of origin and destination of the mails, of articles addressed to or originating in countries outside the union;

2° For the exchange of articles either in open mail or in closed mails across the territories or by means of services maintained by the said countries outside the union;

3° That the articles conveyed may be subject outside the union, as within the union, to the transit rates determined by Article 4.

2. The charges for the total sea transit, within and without the union, may not exceed 15 francs per kilogram of letters and post cards and 1 franc per kilogram of other articles. If occasion arise, these charges are divided, in the ratio of distances, between the offices taking part in the sea conveyance.

3. The charges for transit, by land or sea, without as well as within the limits of the union, on the articles to which the present article applies, are established in the same manner as the transit charges relating to articles exchanged between union countries by means of the services of other countries of the union.

4. The transit charges on articles for countries outside the postal union are payable by the office of the country of origin, which fixes the postage rates in its services for the said articles, but these rates may not be lower than the normal union tariff.

5. The transit charges on articles originating in countries outside the union are not payable by the office of the country of destination. That office delivers without charge articles transmitted to it as fully prepaid; it charges unpaid articles double the prepaid rate applicable in its own service to similar articles addressed to the country where the said articles originate, and insufficiently prepaid articles double the deficiency; but the charge may not exceed that which is levied on unpaid articles of the same nature, weight, and origin.

6. With regard to responsibility in the matter of registered articles, the articles are treated:

For transmission within the limits of the union in accordance with the stipulations of the present convention;

For transmission without the limits of the union in accordance with the conditions notified by the office of the union which serves as the intermediate office.

Article 18. Counterfeit Postage Stamps.

The high contracting parties undertake to adopt, or to propose to their respective legislatures, the necessary measures for punishing the fraudulent use of counterfeit postage stamps or stamps already used for the prepayment of correspondence. They also undertake to adopt, or to propose to their respective legislatures, the necessary measures for prohibiting and repressing the fraudulent manufacture, sale, offering for sale, or distribution of embossed or adhesive stamps in use in the postal service, forged or imitated in such a manner as to be mistakable for the embossed and adhesive stamps issued by the administration of any one of the contracting countries.

Article 19. Special Arrangements for Particular Services.

The services concerning letters and boxes of declared value, postal money orders, postal parcels, collection of bills and drafts, certificates of indemnity, subscriptions to newspapers, etc., form the subject of special arrangements between the various countries or groups of countries composing the union.

Article 20. Regulations of Execution; Special Agreements between Administrations.

1. The postal administrations of the various countries composing the

union are competent to draw up, by common consent, in the form of regulations of execution, all the measures of order and detail which are judged necessary.

2. The several administrations may, moreover, make amongst themselves the necessary arrangements on the subject of questions which do not concern the union generally, provided that those arrangements do not derogate from the present convention.

3. The administrations concerned are, however, permitted to come to mutual arrangements for the adoption of lower rates of postage within a radius of 30 kilometers.

Article 21. Internal Laws; Restricted Unions.

1. The present convention does not involve alterations in the legislation of any country as regards anything which is not provided for by the stipulations contained in this convention.

2. It does not restrict the right of the contracting parties to maintain and to conclude treaties, as well as to maintain and establish more restricted unions, with a view to the reduction of postage rates or to any other improvement of postal relations.

Article 22. International Bureau.

1. Under the name of the International Bureau of the Universal Postal Union a central office is maintained which is conducted under the supervision of the Swiss postal administration, and of which the expenses are borne by all the administrations of the union.

2. This bureau is charged with the duty of collecting, collating, publishing, and distributing information of every kind which concerns the international postal service; of giving, at the request of parties concerned, an opinion upon questions in dispute; of making known proposals for modifying the acts of the congress; and, in general, of taking up such studies and labors as may be confided to it in the interest of the postal union.

Article 23. Disputes to be Settled by Arbitration.

1. In case of disagreement between two or more members of the union as to the interpretation of the present convention, or as to the responsibility resting on an administration by the application of the said convention, the question in dispute is decided by arbitration. To that end each of the administrations concerned chooses another member of the union not directly interested in the matter.

2. The decision of the arbitrators is given by an absolute majority of votes.

3. In case of an equality of votes the arbitrators choose, with the view of settling the difference, another administration equally uninterested in the question in dispute.

4. The stipulations of the present article apply equally to all the agreements concluded by virtue of the foregoing Article 19.

Article 24. Adhesions to the Convention.

1. Countries which have not taken part in the present convention are admitted to adhere to it upon their demand.

2. This adhesion is notified through the diplomatic channel to the government of the Swiss Confederation, and by that government to all the countries of the union.

3. It implies, as a right, accession to all the clauses and admission to all the advantages for which the present convention stipulates.

4. It devolves upon the government of the Swiss Confederation to determine, by common consent with the government of the country concerned, the share to be contributed by the administration of this latter country toward the expenses of the international bureau, and, if necessary, the rates to be levied by that administration in conformity with the foregoing Article 10.

Article 25. Congresses and Conferences.

1. Congresses of plenipotentiaries of the contracting countries, or simple administrative conferences, according to the importance of the questions to be solved, are held, when a demand for them is made or approved by two thirds, at least, of the governments or administrations, as the case may be.

2. A congress shall, in any case, be held not later than five years after the date of the entry into force of the acts concluded at the last congress.

3. Each country may be represented by one or several delegates, or by the delegation of another country. But it is understood that the delegate or delegates of one country can be charged with the representation of two countries only, including the country they represent.

4. In the deliberations each country has one vote only.

5. Each congress settles the place of meeting of the next congress.

6. For conferences, the administrations settle the places of meeting on the proposal of the International Bureau.

Article 26. Proposals made between Congresses.

1. In the interval which elapses between the meetings, any postal administration of a country of the union has the right to address to the other administrations belonging to it, through the medium of the International Bureau, proposals concerning the *regime* of the union.

In order to be considered, every proposal must be supported by at least two administrations, without counting that from which the proposal emanates. When the International Bureau does not receive, at the same time as the proposal, the necessary number of declarations of support, the proposal fails.

2. Every proposal is subject to the following procedure:

A period of six months is allowed to the Administrations of the Union to examine the proposals and to communicate their observations, if any, to the International Bureau. Amendments are not admitted. The ans-

wers are tabulated by the International Bureau, and communicated to the Administrations, with an invitation to declare themselves for or against. Those who have not furnished their vote within a period of six months, counting from the date of the second circular of the International Bureau notifying to them the observations which have been received, are considered as abstaining.

3. In order to become binding, the proposals must obtain:

1° Unanimity of votes if they involve the addition of new stipulations or any modification of the stipulations of the present Article or of Articles 2, 3, 4, 5, 6, 7, 8, 9, 12, 13, 15, 18, 27, 28 and 29.

2° Two thirds of the votes if they involve a modification of the stipulations of the conventions other than those of Articles 2, 3, 4, 5, 6, 7, 8, 9, 12, 13, 15, 18, 26, 27, 28 and 29.

3° Simply an absolute majority, if they affect the interpretation of the stipulations of the Convention, except in the case of dispute contemplated by the foregoing Article 23.

4. Resolutions duly adopted are sanctioned, in the first two cases, by a diplomatic declaration, which the government of the Swiss Confederation is charged with the duty of preparing and transmitting to all the Governments of the contracting countries; and in the third case by a simple notification from the International Bureau to all the Administrations of the Union.

5. No modification or resolution adopted is binding until at least three months after its notification.

Article 27. Protectorates and Colonies Included in the Union.

For the application of the foregoing Articles 22, 25 and 26, the following are considered as a single country or Administration as the case may be:

1° The German protectorates of Africa;

2° The German protectorates of Asia and Australasia;

3° The Empire of British India;

4° The Dominion of Canada;

5° The Commonwealth of Australia with British New Guinea;

7° The whole of all the other British colonies;

8° The whole of the island possessions of the United States of America, comprising at present the islands of Hawaii, the Philippine Islands, and the islands of Porto Rico and of Guam.

9° The whole of the Danish colonies;

10° The whole of the Spanish colonies;

11° Algeria;

12° The French colonies and protectorates in Indo-China;

13° The whole of the other French colonies;

14° The whole of the Italian colonies;

15° The whole of the Dutch colonies;

16° The Portuguese colonies of Africa;

17° The whole of the other Portuguese colonies.

Article 28. Duration of the Convention.

The present convention shall come into operation on the 1st of October, 1907, and shall remain in force for an indefinite period; but each contracting party has the right of withdrawing from the Union, by means of a notice given one year in advance by its Government to the Government of the Swiss Confederation.

Articles 29. Abrogation of Previous Conventions; Ratification.

1. From the date on which the present Convention comes into effect, all the stipulations of the Treaties, Conventions, Agreements, or other Acts previously concluded between the various countries or Administrations, in so far as those stipulations are not in accordance with the terms of the present Convention, are abrogated, without prejudice to the rights reserved by the foregoing Article 21.

2. The present Convention shall be ratified as soon as possible. The acts of ratification shall be exchanged at Rome.

3. In faith of which the plenipotentiaries of the above-named countries have signed the present convention at Rome on the 26th of May, 1906.

(Signatures)

FINAL PROTOCOL

At the moment of proceeding to sign the Conventions settled by the Universal Postal Congress of Rome, the undersigned plenipotentiaries have agreed as follows:

I. Note is taken of the declaration of the British delegates in the name of their Government to the effect that it has assigned to New Zealand, with the Cook Islands and other island dependencies, the vote which Article 27.7th, of the Convention attributes to "the whole of the other British Colonies."

II. In modification of Article 27 of the Convention, a second vote is accorded to the Netherlands colonies, in favor of the Netherlands East Indies.

III. In modification of the stipulations of paragraph 1 of Article 5, it is agreed that, as a temporary measure, Postal Administrations, which in consequence of the organization of their internal service, or for other causes, cannot adopt the principle of the increase of the unit of weight of letters from 15 to 20 grams, and that of the reduction of the charge above the first unit of weight to 15 centimes for each supplementary rate instead of 25 centimes, are authorized to postpone the application of these two stipulations or of one or other of them, so far as regards letters originating in their service, until the day when they are in a position to apply them, and to conform in the mean time to the measures prescribed on this subject by the Congress of Washington.

IV. In modification of Article 6 of the Convention, which fixes at 25 centimes the maximum charge for registration, it is agreed that countries out of Europe are authorized to maintain this maximum at 50 centimes, inclusive of the delivery of a registered receipt to the sender.

V. By way of exception to the provisions of paragraph 3 of Article 12 of the Convention, Persia has the right of collecting from the addressees of printed papers of all kinds received from foreign countries a tax of 5 centimes per article distributed. This right is accorded to it provisionally.

The same right is accorded to China in the event of its adhering to the principal Conventions.

VI. By way of exception to the provisions of Article 4 of the Convention and to the corresponding paragraphs of the Regulations relative thereto, it is agreed as follows in regard to the transit rates to be paid to the Russian Administration on account of correspondence exchanged by way of the Siberian Railway:

1° The accounting for transit charges in respect to the articles mentioned above shall be based, from the date of the opening of the aforesaid railway, on special returns taken every three years during the first twenty-eight days of the month of May or of the month of November (alternately) of the second year of each triennial period, such returns to take effect retrospectively from the first year.

2° The statistics of May, 1908, shall regulate the payments to be made from the date of the commencement of the traffic in question until the end of the year 1909. The statistics of November, 1911, shall apply to the years 1910, 1911, and 1912, and so on.

3° If a country in the Union commences the dispatch of its articles by way of the Siberian Railway during the period covered by the above mentioned statistics, Russia has the right to demand the taking of separate statistics relating exclusively to such articles.

4° The payment of transit charges due to Russia for the first, and if necessary, for the second year of each triennial period, is to be made provisionally at the end of the year on the basis of the preceding statistics, subject to a subsequent settlement of accounts in accordance with the results of the new statistics.

5° Transit in open mail is not admitted by the aforesaid railway.

Japan has the right to apply the stipulations of each paragraph of the present article in regard to the settlement of transit rates due to Japan for the land or sea transit of articles exchanged by way of the Japanese railway in China (Manchuria) and so far as concerns the inadmissibility of transit in open mail.

VII. Salvador, which forms a part of the Postal Union, not having been represented at the Congress, the Protocol remains open to it in order that it may adhere to the conventions which have been concluded there or only to one or other of them.

It remains open with the same object:

a. To Nicaragua and to Peru, whose delegates at the Congress were not furnished with full powers:

b. To the Dominican Republic, whose delegate was obliged to be absent when the Acts were signed.

The Protocol likewise remains open to the Chinese Empire and the Empire of Ethiopia, whose delegates to the Congress have announced the intention of those countries to enter the Universal Postal Union on a date to be fixed hereafter.

VIII. The Protocol remains open to those countries whose representatives have to-day signed only the principal Convention, or only a certain number of the Conventions settled by the Congress, in order to admit of their adherence to the other Conventions signed this day, or to one or other of them.

IX. The adhesions contemplated in the foregoing Article VII must be notified to the Government of Italy by the respective Governments in diplomatic form. The term accorded to them for the notification will expire on the 1st of July, 1907.

X. In the event of one or more of the contracting parties to the Postal Conventions signed today at Rome* not ratifying one or other of these Conventions, this Convention shall be none the less valid for the States which shall have ratified it.

In faith of which the undermentioned plenipotentiaries have drawn up the present final Protocol, which shall have the same force and validity as if its provisions were inserted in the text itself of the Conventions to which it relates, and they have signed it on a single copy, which shall remain in the archives of the government of Italy, and of which a copy shall be delivered to each party.

Done at Rome, the 26th of May, 1906.

(Signatures)⁴

Detailed regulations for the execution of the convention were also agreed to and signed on the same day. They are too long and minute in their provisions to copy here.

The expenses of the International Bureau are provided for by Article XXXVIII of the regulations which reads as follows:

Division of the expenses of the International Bureau.

1. The ordinary expenses of the International Bureau must not exceed the sum of 125,000 francs annually, irrespective of the special expenses to which the meeting of a Congress or of a Conference gives rise.

2. The Swiss Postal Administration supervises the expenses of the In-

⁴ Statutes of the United States 1907-1908. Part II. Treaties and Conventions, 5 to 135.

ternational Bureau, makes the necessary advances, and prepares the annual account, which is communicated to all the other Administrations.

3. For the apportionment of the expenses, the countries of the Union are divided into seven classes, each contributing in the proportion of a certain number of units, viz:

1st class	25 units
2nd "	20 "
3rd "	15 "
4th "	10 "
5th "	5 "
6th "	3 "
7th "	1 "

4. These co-efficients are multiplied by the number of countries of each class, and the total of the products thus obtained furnishes the number of units by which the whole expense is to be divided. The quotient gives the amount of the unit of expense.

5. The countries of the Union are classified as follows, in view of the division of expenses:

1st class: Germany, Austria, United States of America, France, Great Britain, Hungary, British India, Commonwealth of Australia, Canada, the British Colonies and Protectorates of South Africa, the whole of the other British Colonies and Protectorates, Italy, Japan, Russia, Turkey.

2nd class: Spain.

3rd class: Belgium, Brazil, Egypt, Netherlands, Roumania, Sweden, Switzerland, Algeria, French Colonies and Protectorates in Indo China, the whole of the other French Colonies, the whole of the insular possessions of the United States of America, Dutch East Indies;

4th class: Denmark, Norway, Portugal, Portuguese Colonies in Africa, the whole of the other Portuguese Colonies;

5th class: Argentine Republic, Bosnia-Herzegovina, Bulgaria, Chili, Colombia, Greece, Mexico, Peru, Servia, Tunis;

6th class: Bolivia, Costa Rica, Cuba, Dominican Republic, Ecuador, Guatemala, Hayti, Republic of Honduras, Luxemburg, Republic of Nicaragua, Republic of Panama, Paraguay, Persia, Republic of Salvador, Kingdom of Siam, Uruguay, Venezuela, German Protectorates in Africa, German Protectorates in Asia and Australasia, Danish Colonies, Colony of Curacao (or Dutch West Indies), Colony of Surinam (or Dutch Guiana);

7th class: Congo Free State, Corea, Crete, Spanish Establishments in the Gulf of Guinea, the whole of the Italian Colonies, Liberia, Montenegro.⁵

The functions of the International Postal Union and of the postoffice departments of the governments constituting it are

⁵ Statutes of the United States, 1907-1908, Part II. 96.

essentially those of a common carrier. The money-order department adds another business function usually performed by bankers. The sole purpose of the Union is to perform useful public services which have no necessary connection with any purely political question, or with the jealousies or ambitions of governments. The general plan on which the business is carried on is more purely socialistic than any other function discharged by the governments. A vast amount of property is owned and used in the conduct of the business, the title to which is vested in the public. There are no stockholders to either direct the management or demand dividends. The people of each nation furnish to their government, by such method of taxation or contribution as the policy of the particular state dictates, all funds necessary for the accommodation and maintenance of the service within its territory. The rates of postage fixed by the Union for the international service as well as those of each local government for its domestic service, are intended to be sufficient to pay the actual cost of the service, without any return for the use of the postoffice buildings or other public property. The employees who perform the service are interested in the compensation they receive and the conditions under which the service is performed. The general public are interested in the efficiency of the service and the cost of it. The governments stand as the representatives of the whole people charged with the duty of securing the best possible service at a reasonable cost. Acting on these principles the nations have built up their domestic establishments, and by the convention above given they have combined to make the system universal. In this manner by far the greatest and most efficient business establishment that ever existed has been brought into being. Considering the magnitude of its operations and the numbers of people who are dependent on its service, the provisions of the convention appear to be very simple and concise. The appended regulations go into more minute details, but when the diverse circumstances affecting the service in different parts of the world are considered, the differences in language, in units of weight,

measure, distance and value, these also appear to be models of clearness and brevity.

The convention makes provisions for the settlement of controversies under it arising between members of the Union by arbitration in accordance with the provisions of Article 23.

By article 25 it is provided that congresses of plenipotentiaries shall be held as often as once in five years and oftener on demand of two-thirds of the governments, and simple administrative conferences are also provided for.

Proposals concerning the *régime* of the Union may also be made by any member and submitted to a referendum vote, when the proposal is supported by at least two administrations other than the one making the proposal. To become binding the vote must be unanimous if the proposition affects articles 2, 3, 4, 5, 6, 7, 8, 9, 12, 13, 15, 18, 27, 28 and 29, and two-thirds if it involves a modification of the other articles. If the proposal is merely one of interpretation not involving a matter subject to arbitration under article 23, an absolute majority of all determines the question.

Considered as a whole the convention accords with the principles of freedom and equality among the nations, and economy and efficiency in the service. By the latitude given for adaptation to exceptional conditions, and liberty to the governments concerned to adjust matters of interest to only two or a few of them, it avoids difficulties and inconveniences that would result from unnecessarily rigid rules. Its activities extend to people in every state of social and political organization, and the agencies employed must needs be adapted to every condition.

These among other considerations have induced the Congress of the United States to confer powers on a cabinet officer with the advice and consent of the President, which under the constitution are vested in the President and the Senate. It is provided by statute as follows:

"For the purpose of making better postal arrangements with foreign countries, or to counteract their adverse measures affecting our postal intercourse with them, the Postmaster-General, by and with the advice and consent of the President, may negotiate and conclude postal treaties

or conventions, and may reduce or increase the rates of postage on mail-matter conveyed between the United States and foreign countries."⁶

"The Postmaster-General shall transmit a copy of each postal convention concluded with foreign governments to the Secretary of State, who shall furnish a copy of the same to the Congressional Printer for publication; and the printed proof-sheets of all such conventions shall be revised at the Post-Office Department."⁷

The Union as a governmental and business agency appears to be more firmly established and secure against attack than any other international institution or combination.

⁶ Revised Statutes of the United States §399.

⁷ Id. §400.

CHAPTER V

COMMON PROPERTY OF ALL NATIONS

The accepted doctrine of international law is that each nation has exclusive dominion over its lands, interior waters, and the sea along its coasts for a marine league from low water.¹ Beyond this marginal strip of the sea no nation has exclusive rights, but the ocean is free to the ships of all nations. The expression "freedom of the seas" is more generally used as indicating the rights of all nations to its use than any phrase expressing property rights. But the human race dominates the earth, whether the surface be of land or water, and the conception of a right of property over anything susceptible of use grows with the realization of the uses to which it may be put and the advantages to be derived therefrom. The idea of private ownership of land is a development of advanced civilization in regions so densely peopled that it became necessary to apportion a dwelling place to each. The theory of paper titles to land, wholly without regard to use or occupancy, is a further extension of the idea of private ownership of the soil, and makes it a marketable commodity protected by positive law. This theory of ownership is also adopted by the nations, each of which claims exclusive dominion over a definite portion of the land. Nations also have treated their ownership as a vendible commodity and have bought and sold great districts. It was by purchase that the United States acquired Louisiana, Florida, Alaska, portions of Mexico and other districts and islands. Although it is stated in the law books that title to the surface of the land carries with it, unless otherwise expressed, ownership of all beneath it to the center of the earth and of all above to the sky, this ownership is subject to more or less important qualifications. The elements and the wild things over which man has no actual mastery do not become

¹ Taylor, *Int. Law*, 293. Bynkershoek *De Dom. Mar.* c. 2.

his property by coming on his land. Private ownership is also subject to the demands of public necessity. When needed for public use the state may exercise its powers of eminent domain and force the owner to give the land for its value in money. Common needs outweigh private interest. Thus far the community of nations has failed to evolve any law of eminent domain through which a nation may be required to give up its title to anything needed by all for their common use. Yet there are many places over which one nation now exercises exclusive sovereignty, to which the others need equal access and right. Primitive man lives only where he can obtain all things needed to sustain life. The individual or the family or small group supplies its wants from the immediate surroundings, but in the densely peopled and well developed states each person is dependent on the activities of great numbers of persons near and far for his food and clothing. Whole nations have become dependent on other nations for food, for clothing, for fuel and for materials for their industries. The whole world may be dependent on the mines of one country for a particular mineral, on the fields of another for a particular product, or on the forests of another for a gum, a nut or a wood. The countries having a monopoly of such products may be dependent on the markets of the whole world in which to dispose of their peculiar products and obtain their supplies. The whole world looks to a few countries for its supplies of coffee, tea, cotton, rubber, sugar, hemp, spices and drugs. These to reach some of the markets must be transported both by land and by sea. Nowhere is civilized man willing to be restricted to the use of the products of his own country, and much less to the products of the immediate locality in which he lives. The discovery of America and of the ocean routes to Asia put an end to the isolation of nations from each other which had existed from the beginning of time, so far as we know, and introduced all the distant peoples to each other. It is now perceived that the welfare of the people of each nation is dependent in some degree on intercourse with those of distant lands, and that the great laws of commerce, of justice and mutual help must be extended throughout the world for the

benefit of all. Inventive genius and scientific research have revealed possessions and resources, instrumentalities and forces before unknown, by means of which the welfare of all may be promoted. Some of these are by nature incapable of monopoly or exclusive appropriation and therefore the general property of all nations as tenants in common. So far as now known the most important of these are:

1. The Sea, with all that it contains and that lies beneath it, almost three fourths of the whole surface of the earth.
2. The Air, which blows over land and sea from nation to nation, on the purity of which all creatures depend for life.
3. The unseen natural forces which bind together the most remote parts of the earth and may be used for the transmission of intelligence or converted into light, heat or power.
4. The inspirations, revelations and ideals that have been vouchsafed to favored ones for the uplift of the whole race of man.

THE SEA

The ancients made no claim to dominion over the ocean. To them it was a limitless expanse of unknown terrors and offered no temptation for conquest. In modern times ambitious nations seek mastery of the sea, but the accepted doctrine of international law has been and is that all nations have equal rights away from the coast and interior waters, and may freely sail wherever they will on the open seas. This general doctrine by no means disposes of all the questions relating to the uses of the sea. The more important of these relate to:

1. Navigation.
2. Fisheries.
3. Telegraphs: cable and wireless.
4. The bed of the sea and ocean products other than fish.
5. Sanitation.

Manifestly the use of common property must be regulated by the owners of it. If these include all the nations of the earth, then it requires the action of all the nations to prescribe the rules which are to govern its use. Recent occurrences have disclosed the painful inefficiency of international law, and even of treaties and conventions relating to it. The necessity

for intelligent legislation by a body representing all the nations and authorized to make binding laws and enforce them against dissenting minorities is apparent. But the greatest need is not of mere rules regulating the conduct of those who use the seas. There are many enterprises needing the combined support of all the nations which require organization and direction by representatives of all.

NAVIGATION

At present the most important use made of the ocean is as a highway for the navigators, their ships and cargoes. Each ship must have its national character obtained in accordance with the laws of the country of its owners, and must display the flag of its country. This character is established by registry in accordance with the laws of the country granting the registration, and a certificate in due form by the registration officer. To obtain registration as a vessel of the United States, proof must be made that the owner is a citizen of the United States, or if owned by a corporation that the president and managing directors are such citizens, that the corporation is organized under the laws of the United States or a state thereof, and that the master and officials of the vessel are also citizens of the United States.² The provisions of the statute governing registration, transfer on sale, measurement, change of master or of name of the vessel and to meet exceptional cases with reference to the citizenship of owners or officers are very full.³ The registry is made by the collector of the district of which the owner is a resident, who may issue a sea-letter certifying to the ownership of the vessel. Each nation determines for itself the conditions under which it will allow a ship to use its flag and be accorded the protection of its government. The nationality of a ship is a matter of great importance, for it abides with the ship wherever it sails, and carries with it the laws of its country so far as all on board are concerned.

Having been duly registered, before it can depart for a foreign port, a ship must obtain from the collector of the port

² Compiled Statutes of U. S. (1918) Title XLVIII. §§ 7709, 7720, 7722.

³ Compiled Statutes of the United States, §§ 7707 to 7788.

a clearance. To procure a clearance the master of the vessel must deliver to the collector a manifest of all the cargo on board the same and the value thereof and the foreign port or country in which the cargo is intended to be landed. On payment of all legal fees a clearance is granted and the ship may proceed on its voyage. Though the ocean over which it sails has no nationality and is without government or law other than such principles as all the nations recognize, the ship and all on board it retain their national character and laws, not only while on the open sea but also in foreign ports.⁴ The courts of the home port have jurisdiction of all controversies and questions arising on board the ship during its voyage.⁵ Though endowed with full national character by a nation at peace with all other nations, the ship is not necessarily secure from interference on its voyage while on the open sea. If other nations are at war, their rights as belligerents may license them to search and seize such goods as are contraband of war destined to the enemy country. The ship may not violate a lawful blockade of an enemy port by a belligerent, on pain of capture and confiscation. Notwithstanding all recent efforts to guard the rights of neutrals in time of war, the rights of belligerents are still regarded as superior to those of peaceful neutrals conducting their lawful business. Neutral rights are forced to yield to the exigencies of war and the expediencies of naval commanders. The great war has demonstrated the inefficiency both of international law and treaties and conventions as protection to neutral shipping in time of war. The merchant ships of belligerents are of course at all times exposed to capture or destruction by the enemy.

The need of definite, clear and positive rules, strictly enforced, is not confined to times of war or limitation of the acts of belligerents. Vessels of different nationality meet in the ocean routes and lanes of travel in all kinds of weather and under a great variety of conditions affecting their safety. Uniformity of rules governing their conduct and methods of

⁴ Taylor, *Int. Law* 307, 308.

⁵ Taylor, *Int. Law*, 308.

communicating with each other is manifestly essential to their safety. To obtain this there must be either general agreement of all the nations, or a representative body having power to make rules binding on all. It may not be of prime importance that the rules are the best that could be devised, but it is clearly necessary that there shall be uniform rules known and observed by all. To meet this need international marine conferences have been held from time to time. One held at Washington in 1899 was participated in by the following nations: Austria-Hungary, Belgium, Brazil, Chile, China, Costa Rica, Denmark, France, Germany, Great Britain, Guatemala, Honduras, Italy, Japan, Mexico, The Netherlands, Nicaragua, Norway, Portugal, Russia, Siam, Spain, Sweden, Turkey, Uruguay, Venezuela and the United States. The work of the conference resulted in the formulation of rules to be observed by navigators, most of which have been enacted into statutory law by the Congress of the United States, and are as follows:

INTERNATIONAL RULES FOR PREVENTING COLLISIONS AT SEA

The following regulations for preventing collisions at sea shall be followed by all public and private vessels of the United States upon the high seas and in all waters connected therewith, navigable by sea-going vessels.

PRELIMINARY

In the following rules every steam-vessel which is under sail and not under steam is to be considered a sailing-vessel, and every vessel under steam, whether under sail or not, is to be considered a steam vessel.

The words "steam vessel" shall include any vessel propelled by machinery.

A vessel is under way "within the meaning of these rules when she is not at anchor, or made fast to the shore or aground.

RULES CONCERNING LIGHTS, AND SO FORTH

The word "visible" in these rules when applied to lights shall mean visible on a dark night with a clear atmosphere.

Art. 1. The rules concerning lights shall be complied with in all weathers from sunset to sunrise, and during such time no other lights which may be mistaken for the prescribed lights shall be exhibited.

Art. 2. A steam-vessel when under way shall carry—

(a) On or in front of the foremast, or if a vessel without a foremast, then in the fore part of the vessel, at a height above the hull of not less

than twenty feet, or if the breadth of the vessel exceeds twenty feet, then at a height above the hull not less than such breadth, so, however, that the light need not be carried at a greater height above the hull than forty feet, a bright white light, so constructed as to show an unbroken light over an arc of the horizon of twenty points of the compass, so fixed as to throw the light ten points on each side of the vessel, namely, from right ahead to two points abaft the beam on either side, and of such character as to be visible at a distance of at least five miles.

(b) On the starboard side a green light so constructed as to show an unbroken light over an arc of the horizon of ten points of the compass, so fixed as to throw the light from right ahead to two points abaft the beam on the starboard side, and of such a character as to be visible at a distance of at least two miles.

(c) On the port side a red light so constructed as to show an unbroken light over an arc of the horizon of ten points of the compass, so fixed as to throw the light from right ahead to two points abaft the beam on the port side, and of such a character as to be visible at a distance of at least two miles.

(d) The said green and red side-lights shall be fitted with inboard screens projecting at least three feet forward from the light, so as to prevent these lights from being seen across the bow.

(e) A steam-vessel when under way may carry an additional white light similar in construction to the light mentioned in subdivision (a). These two lights shall be so placed in line with the keel that one shall be at least fifteen feet higher than the other, and in such a position with reference to each other that the lower light shall be forward of the upper one. The vertical distance between these lights shall be less than the horizontal distance.

Art. 3. A steam-vessel when towing another vessel shall, in addition to her side-lights, carry two bright white lights in a vertical line one over the other, not less than six feet apart, and when towing more than one vessel shall carry an additional bright white light six feet above or below such light, if the length of the tow measuring from the stern of the towing vessel to the stern of the last vessel towed exceeds six hundred feet. Each of these lights shall be of the same construction and character, and shall be carried in the same position as the white light mentioned in article two (a), excepting the additional light, which may be carried at a height of not less than fourteen feet above the hull.

Such steam-vessel may carry a small white light abaft the funnel or aftermast for the vessel towed to steer by, but such light shall not be visible forward of the beam.

Art. 4. (a) A vessel which from any accident is not under command shall carry at the same height as a white light mentioned in article two (a), where they can best be seen, and if a steam-vessel in lieu of that light, two red lights, in a vertical line one over the other, not less than six feet

apart, and of such a character as to be visible all around the horizon at a distance of at least two miles; and shall by day carry in a vertical line one over the other, not less than six feet apart, where they can best be seen, two black balls or shapes, each two feet in diameter.

(b) A vessel employed in laying or in picking up a telegraph cable shall carry in the same position as the white light mentioned in article two (a) and if a steam-vessel in lieu of that light, three lights in a vertical line one over the other, not less than six feet apart. The highest and lowest of these lights shall be red, and the middle light shall be white, and they shall be of such a character as to be visible all around the horizon, at a distance of at least two miles. By day she shall carry in a vertical line, one over the other, not less than six feet apart, where they can best be seen, three shapes not less than two feet in diameter, of which the highest and lowest shall be globular in shape and red in color, and the middle one diamond in shape and white.

(c) The vessels referred to in this article, when not making way through the water, shall not carry the side lights, but when making way shall carry them.

(d) The lights and shapes required to be shown by this article are to be taken by other vessels as signals that the vessel showing them is not under command and cannot therefore get out of the way.

These signals are not signals of vessels in distress and requiring assistance. Such signals are contained in article thirty-one.

Art. 5. A sailing vessel under way and any vessel being towed shall carry the same lights as are prescribed by article two for a steam-vessel under way, with the exception of the white lights mentioned therein, which they shall never carry.

Art. 6. Whenever, as in the case of small vessels under way during bad weather, the green and red lights cannot be fixed, these lights shall be kept at hand, lighted and ready for use: and shall, on the approach of or to other vessels, be exhibited on their respective sides in sufficient time to prevent collision, in such manner as to make them most visible, and so that the green light shall not be seen on the port side nor the red light on the starboard side, not, if practicable, more than two points abaft the beam on their respective sides. To make the use of these portable lights more certain and easy the lanterns containing them shall each be painted outside with the color of the light they respectively contain, and shall be provided with proper screens.

Art. 7. Steam-vessels of less than forty, and vessels under oars or sails of less than twenty tons gross tonnage, respectively, and rowing boats, when under way, shall not be required to carry the lights mentioned in article two (a), (b), and (c), but if they do not carry them they shall be provided with the following lights:

First, Steam-vessels of less than forty tons shall carry—

(a) In the fore part of the vessel, or on or in front of the funnel,

where it can best be seen, and at a height above the gunwale of not less than nine feet, a bright white light constructed and fixed as prescribed in article two (a) and of such a character as to be visible at a distance of at least two miles.

(b) Green and red side-lights constructed and fixed as prescribed in article two (b) and (c), and of such a character as to be visible at a distance of at least one mile, or a combined lantern showing a green light and a red light from right ahead to two points abaft the beam of their respective sides. Such lanterns shall be carried not less than three feet below the white light.

Second, Small steamboats, such as are carried by seagoing vessels, may carry the white light at a less height than nine feet above the gunwale, but it shall be carried above the combined lantern mentioned in subdivision one (b).

Third, Vessels under oars or sails of less than twenty tons shall have ready at hand a lantern with a green glass on one side and a red glass on the other, which, on the approach of or to other vessels, shall be exhibited in sufficient time to prevent collision, so that the green light shall not be seen on the port side nor the red light on the starboard side.

Fourth, Rowing boats, whether under oars or sail, shall have ready at hand a lantern showing a white light which shall be temporarily exhibited in sufficient time to prevent collision.

The vessels referred to in this article shall not be obliged to carry the lights prescribed by article four (a) and article eleven, last paragraph.

Art. 8. Pilot vessels when engaged in their station on pilotage duty, shall not show the lights required for other vessels but shall carry a white light at the masthead, visible all around the horizon, and shall also exhibit a flare-up light or flare-up lights at short intervals, which shall never exceed fifteen minutes.

On the near approach of or to other vessels they shall have their side lights lighted, ready for use, and shall flash or show them at short intervals, to indicate the direction in which they are heading, but the green light shall not be shown on the port side, nor the red light on the starboard side.

A pilot-vessel of such a class as to be obliged to go alongside of a vessel to put a pilot on board may show the white light instead of carrying it at the masthead, and may, instead of the colored lights above mentioned, have at hand, ready for use, a lantern with a green glass on the one side and a red glass on the other, to be used as prescribed above.

Pilot-vessels when not engaged on their station on pilotage duty shall carry lights similar to those of other vessels of their tonnage.

A steam pilot-vessel, when not engaged on her station on pilotage duty and in waters of the United States, and not at anchor, shall, in addition to the lights required for all pilot boats, carry at a distance of eight feet below her white masthead light a red light, visible all around the horizon and of such a character as to be visible on a dark night with a clear atmos-

phere at a distance of at least two miles, and also the colored side lights required to be carried by vessels when under way.

When engaged on her station on pilotage duty and in waters of the United States, and at anchor, she shall carry in addition to the lights required for all pilot boats the red light above mentioned, but not the colored side lights.

When not engaged on her station on pilotage duty, she shall carry the same lights as other steam vessels.

Art. 9. Fishing vessels and fishing boats, when under way and when not required by this article to carry or show the lights hereinafter specified, shall carry or show the lights prescribed for vessels of their tonnage under way.

(a) Open boats, by which is to be understood boats not protected from the entry of sea water by means of a continuous deck, when engaged in any fishing at night, with outlying tackle extending not more than one hundred and fifty feet horizontally from the boat into the seaway, shall carry one all-round white light.

Open boats, when fishing at night, with outlying tackle extending more than one hundred and fifty feet horizontally from the boat into the seaway, shall carry one all-round white light, and in addition, on approaching or being approached by other vessels, shall show a second white light at least three feet below the first light and at a horizontal distance of at least five feet away from it in the direction in which the outlying tackle is attached.

(b) Vessels and boats, except open boats as defined in subdivision (a), when fishing with drift nets, shall, so long as the nets are wholly or partly in the water, carry two white lights where they can best be seen. Such lights shall be placed so that the vertical distance between them shall be not less than six feet and not more than fifteen feet, and so that the horizontal distance between them, measured in a line with the keel, shall be not less than five feet and not more than ten feet. The lower of these two lights shall be in the direction of the nets, and both of them shall be of such a character as to show all around the horizon, and to be visible at a distance of not less than three miles.

Within the Mediterranean Sea and in the seas bordering the coasts of Japan and Korea sailing fishing vessels of less than twenty tons gross tonnage shall not be obliged to carry the lower of these two lights. Should they, however not carry it, they shall show in the same position (in the direction of the net or gear) a white light, visible at a distance of not less than one sea mile, on the approach of or to other vessels.

(c) Vessels and boats, except open boats as defined in subdivision (a), when line fishing with lines out and attached to or hauling their lines, and when not at anchor or stationary within the meaning of subdivision (h), shall carry the same lights as vessels fishing with drift nets. When shooting lines, or fishing with towing lines, they shall carry the lights prescribed for steam or sailing vessel under way, respectively.

Within the Mediterranean Sea and in the seas bordering the coasts of Japan and Korea sailing fishing vessels of less than twenty tons gross tonnage shall not be obliged to carry the lower of these two lights. Should they, however, not carry it, they shall show in the same position (in the direction of the lines) a white light, visible at a distance of not less than one sea mile on the approach of or to other vessels.

(d) Vessels when engaged in trawling, by which is meant the dragging of an apparatus along the bottom of the sea—

First, If steam vessels, shall carry in the same position as the white light mentioned in article two (a) a tri-colored lantern so constructed and fixed as to show a white light from right ahead to two points on each bow, and a green light and a red light over an arc of the horizon from two points on each bow to two points abaft the beam on the starboard and port sides respectively; and not less than six or more than twelve feet below the tri-colored lantern a white light in a lantern, so constructed as to show a clear, uniform, and unbroken light all around the horizon.

Second, If sailing vessels, shall carry a white light in the lantern, so constructed as to show a clear, uniform and unbroken light all around the horizon, and shall also, on the approach of or to other vessels, show where it can best be seen a white flare-up light or torch in sufficient time to prevent collision.

All lights mentioned in subdivision (d) first and second shall be visible at a distance of at least two miles.

(e) Oyster dredges and other vessels fishing with dredge nets shall carry and show the same lights as trawlers.

(f) Fishing vessels and fishing boats may at any time use a flare-up light in addition to the lights which they are by this article required to carry and show, and they may also use working lights.

(g) Every fishing vessel and every fishing boat under one hundred and fifty feet in length or upward, when at anchor, shall exhibit a white light visible all around the horizon at a distance of at least one mile, and shall exhibit a second light as provided for vessels of such length by article eleven.

Should any such vessel, whether under one hundred and fifty feet in length or of one hundred and fifty feet in length or upward, be attached to a net or other fishing gear, she shall on the approach of other vessels show an additional white light at least three feet below the anchor light, and at a horizontal distance of at least five feet away from it in the direction of the net or gear.

(h) If a vessel or boat when fishing becomes stationary in consequence of her gear getting fast to a rock or other obstruction, she shall in day time haul down the day signal required by subdivision (k); at night show the light or lights prescribed for a vessel at anchor; and during fog, mist, falling snow, or heavy rain storms make the signals prescribed for a vessel at anchor. (See subdivision (d) and the last paragraph of article fifteen).

(i) In fog, mist, falling snow, or heavy rain storms, drift-net vessels attached to their nets, and vessels when trawling, dredging, or fishing with any kind of drag net, and vessels line fishing with their lines out, shall, if of twenty tons gross tonnage or upward, respectively, at intervals of not more than one minute, make a blast; if steam vessels, with the whistle or siren, and if sailing vessels, with the fog-horn, each blast to be followed by ringing the bell. Fishing vessels and boats of less than twenty tons gross tonnage shall not be obliged to give the above-mentioned signals: but if they do not, they shall make some other efficient sound signal at intervals of not more than one minute.

(k) All vessels or boats fishing with nets or lines or trawls, when under way, shall in daytime indicate their occupation to an approaching vessel by displaying a basket or other efficient signal where it can best be seen. If vessels or boats at anchor have their gear out, they shall on the approach of other vessels, show the same signal on the side on which those vessels can pass.

The vessels required by this article to carry or show the lights hereinbefore specified shall not be obliged to carry the lights prescribed by article four (a) and the last paragraph of article eleven.

Art. 10. A vessel which is being overtaken by another shall show from her stern to such last mentioned vessel a white light or a flare-up light.

The white light required to be shown by this article may be fixed and carried on a lantern, but in such case the lantern shall be so constructed, fitted, and screened that it shall throw an unbroken light over an arc of the horizon of twelve points of the compass, namely, for six points from right aft on each side of the vessel, so as to be visible at a distance of at least one mile. Such light shall be carried as nearly as practicable on the same level as the side lights.

Art. 11. A vessel under one hundred and fifty feet in length, when at anchor, shall carry forward, where it can best be seen, but at a height not exceeding twenty feet above the hull, a white light in a lantern so constructed as to show a clear, uniform, and unbroken light visible all around the horizon at a distance of at least one mile.

A vessel of one hundred and fifty feet or upwards in length, when at anchor, shall carry in the forward part of the vessel, at a height of not less than twenty and not exceeding forty feet above the hull, one such light and at or near the stern of the vessel, and at such a height that it shall be not less than fifteen feet lower than the forward light, another such light.

The length of a vessel shall be deemed to be the length appearing in her certificate of registry.

A vessel aground in or near a fair-way shall carry the above light or lights and the two red lights prescribed by article four (a).

Art. 12. Every vessel may, if necessary in order to attract attention, in addition to the lights which she is by these rules required to carry, show

a flare-up light or use any detonating signal that cannot be mistaken for a distress signal.

Art. 13. Nothing in these rules shall interfere with the operation of any special rules made by the Government of any nation with respect to additional station and signal-lights for two or more ships of war or for vessels sailing under convoy, or with the exhibition of recognition signals adopted by ship-owners, which have been authorized by their respective Governments and duly registered and published.

Art. 14. A steam-vessel proceeding under sail only but having her funnel up, shall carry in day-time, forward, where it can best be seen, one black ball or shape two feet in diameter.

SOUND SIGNALS FOR FOG, AND SO FORTH

Art. 15. All signals prescribed by this article for vessels under way shall be given:

First, By "steam vessels" on the whistle or siren.

Second, By "sailing vessels" and "vessels towed" on the fog-horn.

The words "prolonged blast" used in this article shall mean a blast of from four to six seconds duration.

A steam vessel shall be provided with an efficient whistle or siren, sounded by steam or some substitute for steam, so placed that the sound shall not be intercepted by any obstruction, and with an efficient fog-horn to be sounded by mechanical means, and also with an efficient bell. (In all cases where the rules require a bell to be used a drum may be substituted on Turkish vessels, or a gong where such articles are used on board small seagoing vessels.)

A sailing vessel of twenty tons gross tonnage or upward shall be provided with a similar fog-horn and bell.

In fog, mist, falling snow, or heavy rainstorms, whether by day or night, the signals described in this article shall be used as follows, namely:

(a) A steam vessel having way upon her shall sound, at intervals of not more than two minutes, a prolonged blast.

(b) A steam vessel under way, but stopped, and having no way upon her, shall sound, at intervals of not more than two minutes, two prolonged blasts, with an interval of about one second between.

(c) A sailing vessel under way shall sound, at intervals of not more than one minute, when on the starboard tack, one blast; when on the port tack, two blasts in succession, and when with the wind abaft the beam, three blasts in succession.

(d) A vessel when at anchor shall, at intervals of not more than one minute, ring the bell rapidly for about five seconds.

(e) A vessel when towing, a vessel employed in laying or in picking up a telegraph cable, and a vessel under way, which is unable to get out of the way of an approaching vessel through being not under command, or unable to manœuver as required by the rules, shall, instead of the sig-

nals prescribed in subdivisions (a) and (c) of this article, at intervals of not more than two minutes, sound three blasts in succession, namely: one prolonged blast followed by two short blasts. A vessel towed may give this signal and she shall not give any other.

Sailing vessels and boats of less than twenty tons gross tonnage shall not be obliged to give the above-mentioned signals, but, if they do not, they shall make some other efficient sound signal at intervals of not more than one minute.

SPEED OF SHIPS TO BE MODERATE IN FOG, AND SO FORTH

Art. 16. Every vessel shall in a fog, mist, falling snow or heavy rain-storms, go at a moderate speed, having careful regard to the existing circumstances and conditions.

A steam vessel hearing, apparently forward of her beam, the fog signal of a vessel, the position of which is not ascertained shall, so far as the circumstances of the case admit, stop her engines, and then navigate with caution until danger of collision is over.

STEERING AND SAILING RULES

Preliminary—Risk of Collision.

Risk of collision can, when circumstances permit, be ascertained by carefully watching the compass bearing of an approaching vessel. If the bearing does not appreciably change, such risk should be deemed to exist.

Art. 17. When two sailing vessels are approaching one another, so as to involve risk of collision, one of them shall keep out of the way of the other as follows, namely:

(a) A vessel which is running free shall keep out of the way of a vessel which is close-hauled.

(b) A vessel which is close-hauled on the port tack shall keep out of the way of a vessel which is close-hauled on the starboard tack.

(c) When both are running free, with the wind on different sides, the vessel which has the wind on the port side shall keep out of the way of the other.

(d) When both are running free, with the wind on the same side, the vessel which is to the windward shall keep out of the way of the vessel which is to leeward.

(e) A vessel which has the wind aft shall keep out of the way of the other vessel.

Art. 18. When two steam-vessels are meeting end on, or nearly end on, so as to involve risk of collision, each shall alter her course to starboard, so that each may pass on the port side of the other.

This article only applies to cases where vessels are meeting end on, or nearly end on, in such a manner as to involve risk of collision, and does not apply to two vessels which must, if both keep on their respective courses, pass clear of each other.

The only cases to which it does apply are when each of the two vessels is end on, or nearly end on, to the other; in other words, to cases in which, by day, each vessel sees the masts of the other in a line, or nearly in a line, with her own; and by night, to cases in which each vessel is in such a position as to see both the side-lights of the other.

It does not apply by day to cases in which a vessel sees another ahead crossing her own course; or by night, to cases where the red light of one vessel is opposed to the red light of the other, or where the green light of one vessel is opposed to the green light of the other, or where a red light without a green light, or a green light without a red light is seen ahead, or where both green and red lights are seen anywhere but ahead.

Art. 19. When two steam-vessels are crossing, so as to involve risk of collision, the vessel which has the other on her own starboard side shall keep out of the way of the other.

Art. 20. When a steam vessel and a sailing vessel are proceeding in such direction as to involve risk of collision, the steam-vessel shall keep out of the way of the sailing vessel.

Art. 21. Where, by any of these rules, one of two vessels is to keep out of the way the other shall keep her course and speed.

NOTE.—When, in consequence of thick weather or other causes, such vessel finds herself so close that collision cannot be avoided by the action of the giving-way vessel alone, he shall also take such action as will best aid to avert collision.

Art. 22. Every vessel which is directed by these rules to keep out of the way of another vessel shall, if the circumstances of the case admit, avoid crossing ahead of the other.

Art. 23. Every steam-vessel which is directed by these rules to keep out of the way of another vessel shall, on approaching her, if necessary, slacken her speed or stop or reverse.

Art. 24. Notwithstanding anything contained in these rules every vessel, overtaking any other, shall keep out of the way of the overtaken vessel.

Every vessel coming up with another vessel from any direction more than two points abaft her beam, that is, in such a position, with reference to the vessel which she is overtaking that at night she would be unable to see either of that vessel's side-lights, shall be deemed to be an overtaking vessel: and no subsequent alteration of the bearing between the two vessels shall make the overtaking vessel a crossing vessel within the meaning of these rules, or relieve her of the duty of keeping clear of the overtaken vessel until she is finally past and clear.

As by day the overtaking vessel cannot always know with certainty whether she is forward of or abaft this direction from the other vessel she should, if in doubt, assume that she is an overtaking vessel and keep out of the way.

Art. 25. In narrow channels every steam vessel shall, when it is safe and practicable, keep to that side of the fair-way or mid-channel which lies on the starboard side of such vessel.

Art. 26. Sailing vessels under way shall keep out of the way of sailing vessels or boats fishing with nets, or lines, or trawls. This rule shall not give to any vessel or boat engaged in fishing the right of obstructing a fair-way used by vessels other than fishing vessels or boats.

Art. 27. In obeying and construing these rules due regard shall be had to all dangers of navigation and collision, and to any special circumstances which may render a departure from the above rules necessary in order to avoid immediate danger.

SOUND SIGNALS FOR VESSELS IN SIGHT OF ONE ANOTHER

Art. 28. The words "short blast" used in this article shall mean a blast of about one second's duration.

When vessels are in sight of one another, a steam vessel under way, in taking any course authorized or required by these rules, shall indicate that course by the following signals on her whistle or siren, namely:

One short blast to mean "I am directing my course to starboard."

Two short blasts to mean "I am directing my course to port."

Three short blasts to mean "My engines are going at full speed astern."

NO VESSEL UNDER ANY CIRCUMSTANCES TO NEGLECT PROPER PRECAUTIONS

Art. 29. Nothing in these rules shall exonerate any vessel or owner or master or crew thereof, from the consequences of any neglect to carry lights or signals, or of any neglect to keep a proper lookout, or of the neglect of any precaution which may be required by the ordinary practice of seamen, or by the special circumstances of the case.

RESERVATION OF RULES FOR HARBORS AND INLAND NAVIGATION

Art. 30. Nothing in these rules shall interfere with the operation of a special rule, duly made by local authority, relative to the navigation of any harbor, river, or inland waters.

DISTRESS SIGNALS

Art. 31. When a vessel is in distress and requires assistance from other vessels or from shore, the following shall be the signal to be used or displayed by her, either together or separately, namely:

In the daytime—

First, A gun or other explosive signal fired at intervals of about a minute.

Second, The international code signal of distress indicated by N.C.

Third, The distance signal, consisting of a square flag, having either above or below it a ball or anything resembling a ball.

Fourth, A continuous sounding with a fog-signal apparatus.

At night—

First, A gun or other explosive signal fired at intervals of about a minute.

Second, Flames on the vessel (as from a burning tar barrel, oil barrel, and so forth.)

Third, Rockets or shells throwing stars of any color or description, fired one at a time at short intervals.

Fourth, A continuous sounding with fog-signal apparatus.⁶

Of the foregoing rules and regulations Articles 1, 5, 6, 8, 12, 13, 14, 16, 17, 19, 20, 21, 22, 23, 24, 25, 26, 27, and 29, are included in the rules for harbors, rivers and inland waters. Rules not identical but substantially the same as those contained in Articles 2, 3, 11, 15, 18, are also made to apply to them. The rules for the Great Lakes and connecting and tributary waters, though similar, are somewhat different in their provisions, as also are those for the Red River of the North and the rivers emptying into the Gulf of Mexico.⁷

It will be observed that, so far as it concerns the United States, international law-making in this instance has not taken the usual form of an international convention, ratified as such, but the rules formulated by the representatives of the nations have been enacted into statutory law. The statute makes it the duty of the master of each vessel, in case of collision, so far as he can safely do so, to stay by and assist the other vessel, her crew and passengers, to report all serious accidents to the collector of the port to which the vessel belongs and "so far as he can do so without serious danger to his own vessel, crew, or passengers, render assistance to every person who is found at sea in danger of being lost," failing so to do renders him liable to a penalty of \$1,000 or imprisonment for two years or both.⁸

By the act of October 31, 1903, it was provided:

That the President of the United States be, and he is hereby authorized to make with the several governments interested in the navigation of the North Atlantic Ocean, an international agreement providing for the reporting, marking, and removal of dangerous wrecks, derelicts, and other menaces to navigation in the North Atlantic Ocean outside the coast waters of the respective countries bordering thereon.⁹

⁶ Compiled Statutes of the United States, 1918, §§7834 to 7870.

⁷ Id. §§ 7872 to 7874.

⁸ Id. §§ 7975, 7979, 7991.

⁹ Id. § 7989.

The necessity for concerted action by all interested nations to guard against dangers of this kind was made distressingly prominent by the disastrous collision of the Titanic with an iceberg on April 14, 1912 with appalling loss of life. This led to a conference at London, at which the following convention was signed on January 20, 1914 by representatives of Germany, Austria-Hungary, Belgium, Denmark, Spain, United States, France, Great Britain, Italy, Norway, The Netherlands, Russia and Sweden.

INTERNATIONAL CONVENTION ON SAFETY OF LIFE AT SEA

Chapter I—Safety of Life at Sea

Art. 1. The high contracting parties undertake to give effect to the visions of this convention, for the purpose of securing safety of life at sea, to promulgate all regulations and to take all steps which may be necessary to give the convention full and complete effect.

The provisions of this convention are completed by regulations which have the same force and take effect at the same time as the convention. Every reference to the convention implies at the same time a reference to the regulations annexed thereto.

Chapter II—Ships to Which this Convention Applies

Art. 2. Except where otherwise provided by this convention, the merchant ships of any of the states of the high contracting parties, which are mechanically propelled, which carry more than 12 passengers and which proceed from a port of one of the said states to a point situated outside that state, or conversely, are subject to the provisions of this convention. Ports situated in the colonies, possessions or protectorates of the high contracting parties are considered to be ports outside the states of the high contracting parties.

Persons who are on board by reason of *force majeure* or in consequence of the obligations laid on the master to carry shipwrecked or other persons are not deemed to be passengers.

Art. 3. There are excepted from this convention save in the cases where the convention otherwise provides, ships making voyages specified in a schedule to be communicated by each high contracting party to the British Government at the time of ratifying the convention.

No schedules may include voyages in the course of which the ships go more than 200 sea miles from the nearest coast.

Each high contracting party has the right subsequently to modify its schedule of voyages in conformity with this article on condition that it notifies the British government of such modification.

Each high contracting party has the right to claim from another high contracting party the benefit of the privileges of the convention for all of its ships which are engaged in any one of the voyages mentioned in its own schedule. For this purpose the party claiming such benefit shall impose on the said ships the obligations prescribed by the convention in so far as, having regard to the nature of the voyage, these obligations would not be unnecessary or unreasonable.

Art. 4. No ship, not subject to the provisions of the convention at the time of its departure, can be subject to the convention in the course of its voyage, if stress of weather or any other cause of *force majeure* compels it to take refuge in a port of one of the states of the high contracting parties.

Chapter III—Safety of Navigation

Art. 5. When the expression "every ship" is used in this chapter and in the corresponding part of the annexed regulations, it includes all merchant ships, whether they are ships defined in article 2 or not, which belong to any of the contracting states.

Art. 6. The high contracting parties undertake to take all steps to ensure the destruction of derelicts in the Northern part of the Atlantic ocean east of a line drawn from Cape Sable to a point situated in latitude 34° north and longitude 70° west. Further, they will establish in the north Atlantic with the least possible delay a service for the study and observation of ice conditions and a service of ice patrol.

For this purpose:—

Two vessels shall be charged with these three services.

During the whole of the ice season, they shall be employed in ice patrol.

During the rest of the year the two vessels shall be employed in the study and observation of ice conditions and in the destruction of derelicts; nevertheless the study and observation of ice conditions shall be effectively maintained, in particular from the beginning of February to the opening of the ice season.

While the two vessels are employed in ice patrol the high contracting parties, to the extent of their ability and so far as the exigencies of naval service will permit, will send warships or other vessels to destroy any dangerous derelicts, if this destruction is considered necessary at that time.

Art. 7. The government of the United States is invited to undertake the management of the three services of derelict destruction, study and observation of ice conditions, and ice patrol. The high contracting parties which are especially interested in these services, and whose names are given below, undertake to contribute to the expense of establishing and working the said services in the following proportions: Austria-Hungary, 2%, Belgium, 4%, Canada, 2%, Denmark, 2%, France, 15%, Germany, 15%, Great Britain, 30%, Italy, 4%, Netherlands, 4%, Norway, 3%, Russia, 2%, Sweden, 2%, United States of America, 15%.

Each of the high contracting parties has the right to discontinue its contribution to the expense of working these services after the 1st September, 1916. Nevertheless, the high contracting party which avails itself of this right will continue responsible for the expenses of working up to the 1st September following the date of denunciation of the convention on this particular point. To take advantage of the said right, it must give notice to the other contracting parties at least six months before the said 1st September; so that, to be free from its obligations on the 1st September, 1916, it must give notice on the 1st March, 1916, at the latest, and similarly for each subsequent year.

In case the United States government should not accept the proposal made to them, or in case one of the high contracting parties, for any reason, should not assume responsibility for the pecuniary contribution defined above, the high contracting parties shall settle the question in accordance with their mutual interests.

The government of the high contracting party which undertakes the management of the service of derelict destruction is invited to devise means of granting, at the expense of this service, to merchant ships, which have contributed in an effective manner to the destruction of ocean derelicts, rewards to be fixed by the government in accordance with the services rendered.

The high contracting parties which contribute to the cost of the three above-mentioned services shall have the right by common consent to make from time to time such alterations in the provisions of this article and of article 6 as appear desirable.

Art. 8. The master of every ship which meets with dangerous ice or a dangerous derelict is bound to communicate the information by means of communication at his disposal to the ships in the vicinity, and also to the competent authorities at the first point of the coast with which he can communicate.

Every administration which receives intelligence of dangerous ice or of a dangerous derelict shall take all steps which it thinks necessary for bringing the information to the knowledge of those concerned and for communicating it to the other administrations.

The transmission of messages respecting ice and derelicts is free of cost to the ships concerned.

It is desirable that the said information should be sent in a uniform manner. For this purpose, a code, the use of which is optional, appears in article I of the regulations annexed hereto.

Art. 9. The master of every ship fitted with a radio-telegraph installation, on becoming aware of the existence of an imminent and serious danger to navigation, shall report it immediately in the manner prescribed by article II. of the regulations annexed hereto.

Art. 10. When ice is reported on, or near, his course, the master of every ship is bound to proceed at night at a moderate speed, or to alter his course so as to go well clear of the danger zone.

Art. 11. The ships defined by article 2 shall have on board a Morse signalling lamp of sufficient range.

The use of Morse signals is regulated by the code appearing in article III. as well as by article IV. of the regulations annexed hereto.

Art. 12. The use of the international distress signals for any other purpose than that of signals of distress is prohibited on every ship.

The use of private signals which are liable to be confused with the international distress signals is prohibited on every ship.

Art. 13. The selection of the routes across the north Atlantic in both directions is left to the responsibility of the steamship companies. Nevertheless, the high contracting parties undertake to impose on these companies the obligation to give public notice of the regular routes which they propose their vessels should follow, and of any changes which they make in them.

The high contracting parties undertake, further, to use their influence to induce the owners of all vessels crossing the Atlantic to follow as far as possible the routes adopted by the principal companies.

Art. 14. The high contracting parties undertake to use all diligence to obtain from the governments which are not parties to this convention their agreement to the revision of the international regulations for preventing collisions at sea as indicated below:

(A) The regulations shall be completed or revised in regard to the following points:

- (1) The second white light.
- (2) The stern light.
- (3) A day signal for motor vessels.
- (4) A sound signal for a vessel towed.
- (5) The prohibition of signals similar to distress signals.

(B) Articles 2, 10, 14, 15, 31 of the said regulations shall be amended in accordance with the following provisions:

Article 2. The second white mast-head light to be compulsory.

Article 10. A permanent fixed stern light to be compulsory.

Article 14. A special day signal to be compulsory for motor vessels.

Article 15. A special sound signal to be established for use by a vessel in tow, or if the tow is composed of several vessels by the last vessel of the tow.

Article 31. Article 31 to be modified in the following manner: Add to the list of both day and night signals the international radiotelegraph distress signal.

Art. 15. The governments of the high contracting parties undertake to maintain, or, if it is necessary, to adopt, measures for the purpose of ensuring that, from the point of view of safety at sea, the ships defined in article 2 shall be sufficiently and efficiently manned.

Chapter IV—Construction

NEW SHIPS AND EXISTING SHIPS

Art. 16. For the application of the articles contained in this chapter and in the corresponding part of the regulations annexed hereto, the ships defined in article 2 are divided into "new ships" and "existing ships."

New ships are those the keel of which is laid after the 1st of July, 1915. The following articles of this chapter, namely articles 17 to 30, are applicable to them in full.

Other ships are considered as existing ships. Existing arrangements on each of these ships shall be considered by the administration of the state to which the ship belongs, with a view to improvements providing for increased safety where practicable and reasonable.

SUBDIVISION OF SHIPS

Art. 17. Ships shall be as efficiently subdivided as possible having regard to the nature of the service for which they are intended. The minimum requirements respecting subdivision and arrangements affecting subdivision are given in the following articles and in the regulations annexed to this convention.

The degree of safety provided for by these minimum requirements varies in a regular and continuous manner with the length of the vessel and with a certain "criterion of service." The requirements of the annexed regulations are such that the highest degree of safety corresponds with the ships of the greatest length primarily engaged in the carriage of passengers.

Articles V. to IX. of the annexed regulations indicate the method to be followed in order to determine the permissible length of compartments on the basis of floodable length; prescribe a limit to the length of compartments; and fix the conditions governing special cases.

When the watertight subdivision of a ship is such as to provide for a degree of safety greater than that provided by the rules prescribed by this convention, the administration of the state to which the ship belongs shall, if so required by the owner, record this fact on the safety certificate of the ship to the extent and in the manner provided in article X. of the annexed regulations.

PEAK AND MACHINERY SPACE BULKHEADS

Art. 18. Ships shall be fitted with forward and after peak bulkheads at the extremities of the machinery space in accordance with the provisions of article XI. of the annexed regulations.

FIREPROOF BULKHEADS

Art. 19. With a view to retarding the spread of fire, ships shall be fitted with fireproof bulkheads in accordance with the provisions of article XVI. of the annexed regulations.

EXITS FROM WATERTIGHT COMPARTMENTS

Art. 20. The conditions under which means of escape from the various water tight compartments shall be provided are indicated in article XIII. of the annexed regulations.

CONSTRUCTION AND TESTS OF WATERTIGHT BULKHEADS

Art. 21. In order to ensure their strength and watertightness, watertight bulkheads shall be constructed and tested in accordance with the provisions of article XIV. of the annexed regulations.

OPENINGS IN WATERTIGHT BULKHEADS

Art. 22. The number of openings in watertight bulkheads shall be reduced to the minimum compatible with the design and proper working of the ship: satisfactory means shall be provided for closing these openings. Articles XV. and XVII. of the annexed regulations indicate the conditions governing the number of openings, the character and use of the means of closing with which these openings shall be provided, and the tests to which watertight doors shall be subjected.

OPENINGS IN SHIP'S SIDE

Art. 23. Side-scuttles and other openings in the side of the ship and the inboard openings of discharges through the shell shall be provided with the means of closing them, and shall be arranged in such manner as to prevent so far as possible the accidental admission of water into the ship. Articles XVI. and XVII. of the annexed regulations indicate the conditions under which openings may be made in the ship's side, the appliances which shall be provided for closing these openings, and the requirements as to operating the closing appliances.

CONSTRUCTION AND TESTS OF WATERTIGHT DECKS, &c.

Art. 24. In order to ensure their strength and watertightness, watertight decks, trunks and ventilators shall be constructed and tested in accordance with the provisions of article XVIII. of the annexed regulations.

PERIODICAL OPERATION AND INSPECTION OF WATERTIGHT DOORS, &c.

Art. 25. The conditions under which inspection of watertight doors, &c., and drills for their operation, shall be made periodically during a voyage are indicated in article XIX. of the annexed regulations.

ENTRIES IN THE OFFICIAL LOG BOOK

Art. 26. A record of the closing and opening of watertight doors, &c., and of all inspections and drills, shall be entered in the official log book as required by article XX. of the annexed regulations.

DOUBLE BOTTOMS

Art. 27. The conditions under which a double bottom shall be fitted in

ships of different lengths, and in particular the minimum extent of the double bottom longitudinally and transversely, are indicated in article XXI, of the annexed regulations.

GOING ASTERN AND AUXILIARY STEERING APPARATUS

Art. 28. Ships shall comply, as regards their power of going astern and the fitting of auxiliary steering apparatus, with the provisions of article XXII. of the annexed regulations.

INITIAL AND SUBSEQUENT SURVEYS OF SHIPS

Art. 29. The general principles which shall govern the survey of the ships defined in article 2, whether new ships or existing ships, as regards hull, main and auxiliary boilers and machinery, and equipments, are stated in articles XXIV. to XXVI. of the annexed regulations. The government of each of the high contracting parties undertakes:

(1) To draw up detailed regulations in accordance with these general principles, or to bring its existing regulations into agreement with these principles:

(2) To communicate these regulations to each of the other contracting states; and

(3) To secure that these regulations shall be enforced.

The detailed regulations referred to in the preceding paragraph shall be in all respects such as to secure that, from the point of view of safety of life, the ship is fit for the service for which it is intended.

QUESTIONS FOR FURTHER STUDY AND AGREEMENT.—EXCHANGE OF INFORMATION

Art. 30. The high contracting parties undertake to cause the study of the criterion of service referred to in article 17 to be pressed forward, and to communicate to each other the results of that study.

The British government is invited to undertake the duty of circulating this information, and, as soon as definite result is attainable, of endeavoring to secure, through the diplomatic channel, the acceptance by the contracting states of the criterion. Upon its acceptance by each of the contracting states, as from a date and subject to conditions to be agreed upon, such criterion shall have effect as if it were prescribed in the convention.

The above procedure shall also be applied to the following items:

(1) The fitting of longitudinal watertight bulkheads, double skins and water tight decks and flats, and the question whether there may be allowed any increase in the length of transverse watertight compartments in any way of which such longitudinal subdivision is fitted, and, if so, to what extent;

(2) The method of subdivision for obtaining the highest practicable degree of safety to be applied to ships of shorter lengths than those covered by article VIII. of the annexed regulations; and

(3) The results of experiments in regard to the proper margin of re-

sistance above the pressure which water tight bulkheads are required to be capable of supporting, as referred to in article XIV. of the annexed regulations.

The contracting states undertake to exchange information as freely as possible in regard to the application of the rules of this convention in matters relating to safety of construction. They shall communicate to each other the methods or rules which they adopt, information concerning any new fittings or appliances which they sanction, the decisions which they make in regard to points of principle not covered by the foregoing articles and the corresponding portion of the annexed regulations and the final results of their further studies in matters not definitely determined.

CHAPTER V—RADIOTELEGRAPHY

Art. 31. All merchant ships belonging to any of the contracting states, whether they are propelled by machinery or by sails and whether they carry passengers or not shall, when engaged on the voyages specified in article 2, be fitted with a radiotelegraph installation, if they have on board fifty or more persons in all.

Advantage may not be taken of the provisions of article 2 and 3 of this convention to exempt a ship from the requirements of this chapter.

Art. 32. Ships on which the number of persons on board is exceptionally and temporarily increased up to or beyond fifty as the result of *force majeure*, or because the master is under the necessity of increasing the number of his crew to fill the places of those who are ill, or is obliged to carry shipwrecked or other persons, are exempt from the above obligation.

Moreover, the governments of each of the contracting states, if they consider that the route and the conditions of the voyage are such as to render a radiotelegraph installation unreasonable or unnecessary, may exempt from the above requirements the following ships:

(1) Ships which in the course of their voyage do not go more than 150 sea miles from the nearest coast:

(2) Ships on which the number of persons on board is exceptionally or temporarily increased up to or beyond fifty by the carriage of cargo hands for a part of the voyage, provided that the said ships are not going from one continent to another, and that, during that part of their voyage, they remain within the limits of latitude 30 N. and 30 S.;

(3) Sailing vessels of primitive build, such as dhows, junks, etc., if it is practically impossible to instal a radiotelegraph apparatus.

Art. 33. Ships which, in accordance with article 31 above, are required to be fitted with a radiotelegraph installation are divided, for the purpose of radiotelegraph service, into three classes, in accordance with the classification established for ship stations in article XIII. (b) of the regulations annexed to the radiotelegraph convention, signed in London on the 5th July, 1912, viz:

First Class—Ships having a continuous service.

There shall be placed in the first class ships which are intended to carry twenty-five or more passengers:

- (1) If they have an average speed in service of fifteen knots or more;
- (2) If they have average speed in service of more than thirteen knots, but only subject to the twofold conditions that they have on board two hundred persons or more (passengers and crew), and that, in the course of their voyage, they go a distance of more than five hundred sea miles between any two consecutive ports. Nevertheless these ships may be placed in the second class on condition that they have a continuous watch.

Second Class—Ships having a service of limited duration.

There shall be placed in the second class all ships which are intended to carry twenty-five or more passengers, if they are not, for other reasons, placed in the first class.

Ships placed in the second class must, during navigation, maintain a continuous watch for at least seven hours a day, and a watch of ten minutes at the beginning of every other hour.

Third Class—Ships which have no fixed period of service.

All ships which are placed neither in the first nor in the second class shall be placed in the third class.

The owner of a ship placed in the second or in the third class has the right to require that, if the ship complies with all the requirements for a superior class, a statement to the effect that it belongs to that superior class shall be inserted in the safety certificate.

Art. 34. Ships which are required by article 31 above to be fitted with a radio-telegraph installation shall be required, by the governments of the countries to which they belong, to maintain a continuous watch during navigation as soon as the said governments consider that it will be of service for the purpose of safety of life at sea.

Meanwhile, the high contracting parties undertake to require, from the date of the ratification of the present convention subject to the delays specified below, a continuous watch on the following ships:

(1) Ships whose average speed in service exceeds 13 knots, which have on board 200 persons or more, and which, in the course of their voyage, go a distance of more than 500 sea miles between two consecutive ports when these ships are placed in the second class.

(2) Ships in the second class, for the whole of the time during which they are more than 500 sea miles from the nearest coast.

(3) Other ships specified in article 21, when they are engaged in the trans-Atlantic trade, or when they are engaged in other trades if their route takes them 1,000 sea miles from the nearest coast.

Ships connected with all kinds of fishing business, including whaling, which are required to be fitted with a radiotelegraph installation, shall not be required to maintain a continuous watch.

The continuous watch may be kept by one or more operators, holding

certificates in accordance with article X. of the regulations annexed to the international radiotelegraph convention, 1912, together, if necessary, with one or more certified watchers. Nevertheless, if an efficient automatic calling apparatus is invented, the continuous watch may be maintained by this means by agreement between the governments of the high contracting parties.

By "certified watcher" is meant any person holding a certificate issued under the authority of the administration concerned. To obtain this certificate the applicant must prove that he is capable of receiving and understanding the radiotelegraph distress signal and the safety signal described in the regulations annexed hereto.

The high contracting parties undertake to take steps to insure that the certified watchers observe the secrecy of correspondence.

Art. 35. The radiotelegraph installations required by article 31 above shall be capable of transmitting clearly perceptible signals from ship to ship over a range of at least 100 sea miles by day under normal conditions and circumstances.

Every ship which is required, in conformity with the provisions of article 31 above, to be fitted with a radiotelegraph installation, shall, whatever be the class in which it is placed, be provided in accordance with article XI. of the regulations annexed to the International Radiotelegraph Convention, 1912, with an emergency installation, every part of which is placed in a position of the greatest possible safety to be determined by the government of the country to which the ship belongs.

In all cases the emergency installation must be placed, in its entirety, in the upper part of the ship, as high as practically possible.

The emergency installation includes, as provided by article XI. of the regulations annexed to the International Radiotelegraph Convention, 1912, an independent source of energy capable of being put into operation rapidly and of working for at least six hours with a minimum range of eighty sea miles for ships in the first class and fifty sea miles for ships in the two other classes.

If the normal installation, which, in accordance with this article, has a range of at least 100 sea miles, satisfies all the conditions prescribed above, an emergency installation is not required.

The license provided for in article IX. of the regulations annexed to the International Radiotelegraph Convention, 1912, may not be issued unless the installation complies both with the provisions of that convention, and also with the provisions of this convention.

Art. 36. The matters governed by the International Radiotelegraph Convention, 1912, and the regulations annexed thereto, and in particular the radiotelegraph installations on ships, the transmission of messages, and the certificates of the operators, remain and will continue subject to the provisions:

(1) Of that convention and the regulations annexed thereto, or of any other instruments which may in the future be substituted therefor.

(2) Of this convention, in regard to all the points in which it supplements the aforementioned documents.

Art. 37. Every master of a ship, who receives a call for assistance from a vessel in distress is bound to proceed to the assistance of the persons in distress.

Every master of a vessel in distress has the right to requisition from the ships which answer his call for assistance the ship or ships which he considers best able to render him assistance, but he must exercise this right only after consultation, so far as may be possible, with the masters of those ships. Such ships are then bound to comply immediately with the requisition by proceeding with all speed to the assistance of the persons in distress.

The masters of the ships which are required to render assistance are released from this obligation as soon as the master or masters requisitioned have made known that they will comply with the requisition, or as soon as the master of one of the ships which has reached the scene of the casualty has made known to them that their assistance is no longer necessary.

If the master of a ship is unable, or considers it unreasonable or unnecessary, in the special circumstances of the case, to go to the assistance of the vessel in distress, he must immediately inform the master of the vessel in distress accordingly. Moreover he must enter in his log book the reasons justifying his action.

The above provisions do not prejudice the international convention for the unification of certain rules with respect to assistance and salvage at sea, signed at Brussels on the 23rd September, 1910, and, in particular, the obligation to render assistance laid down in article 11 of that convention.

Art. 38. The high contracting parties undertake to take all steps necessary for giving effect to the provisions of this chapter with the least possible delay. Nevertheless, they may allow:

A delay not exceeding one year, from the date of the ratification of this convention, for the provision and training of operators and for the installation of the apparatus on ships placed in the first and second classes.

A delay not exceeding two years, from the date of the ratification of this convention, for the provision and training of the operators and watchers on the ships in the third class, for the installation of the apparatus on ships of the third class and for the establishment of a continuous watch on ships placed in the second and third classes.

Chapter VI—Life-saving Appliances and Fire Protection

NEW SHIPS AND EXISTING SHIPS

Art. 39. For the application of the articles contained in this chapter and of the corresponding part of the regulations annexed hereto the ships defined in article 2 are divided into new ships and existing ships.

New ships are those of which the keel is laid after the 31st December, 1914.

Other ships are considered as existing ships.

FUNDAMENTAL PRINCIPLE

Art. 40. At no moment of its voyage may a ship have on board a total number of persons greater than that for whom accommodation is provided in the life-boats and pontoon life-rafts on board.

The number and arrangement of the boats, and (where they are allowed) of pontoon rafts, on a ship depends on the total number of persons which the ship is intended to carry; provided that there shall not be required on any voyage a total capacity in boats, and (where they are allowed) pontoon rafts, greater than that necessary to accommodate all the persons on board.

STANDARD TYPES OF BOATS—PONTON RAFTS

Art. 41. All the life-boats allowed for a ship shall comply with the conditions fixed by this convention and articles XXVII. and XXXII. of the regulations annexed hereto: the same articles describe the standard types, which are divided into two classes.

The conditions required for the pontoon rafts are given in Article XXXIII. of the same regulations.

STRENGTH OF BOATS

Art. 42. Each boat must be of sufficient strength to enable it to be safely lowered into the water when loaded with its full complement of persons and equipment.

ALTERNATIVE TYPES OF BOATS AND RAFTS

Art. 43. Any type of boat may be accepted as equivalent to a boat of one of the prescribed classes and any type of raft as equivalent to an approved pontoon raft, if the administrations concerned are satisfied by suitable trials that it is as effective as the standard types of the class in question, or as the approved type of pontoon raft, as the case may be.

The government of the high contracting party which accepts a new type of boat or raft will communicate to the governments of the other contracting parties particulars of the trials made. It will also inform them of the class in which a new type of boat has been placed.

EMBARKATION OF THE PASSENGERS IN BOATS AND RAFTS

Art. 44. Suitable arrangements shall be made for embarking the passengers in the boats.

In ships which carry rafts there shall be a number of rope ladders always available for use in embarking the persons on to the rafts.

CAPACITY OF BOATS AND PONTON RAFTS

Art. 45. The number of persons that a boat of one of the standard types or an approved pontoon raft can accommodate is determined by the methods indicated in articles XXXIV. and XXXIX., inclusive of the regulations annexed hereto.

EQUIPMENT OF BOATS AND PONTON RAFTS

Art. 46. Article XL. of the annexed regulations prescribes the equipment for boats and pontoon rafts. All loose equipment must be securely attached to the boat or pontoon raft to which it belongs.

STOWAGE OF BOATS—NUMBER OF DAVITS

Art. 47. The arrangements to be made for the stowage of boats and in particular the extent to which pontoon rafts may be accepted are specified in articles XLI., XLII., and XLIII. of the annexed regulations.

The minimum number of sets of davits is fixed in relation to the length of the ship: provided that a number of sets of davits greater than the number of boats necessary for the accommodation of all the persons on board may not be required.

HANDLING OF THE BOATS AND RAFTS

Art. 48. All the boats and rafts must be stowed in such a way that they can be launched in the shortest possible time and that, even under unfavorable conditions of list and trim from the point of view of the handling of the boats and rafts, it may be possible to embark in them as large a number of persons as possible.

The arrangements must be such that it may be possible to launch on either side of the ship as large a number of boats and rafts as possible.

Supplementary instructions are given in article LIV. of the annexed regulations.

STRENGTH AND OPERATION OF THE DAVITS

Art. 49. The davits shall be of such strength that the boats can be lowered with their full complement of persons and equipment, the ship being assumed to have a list of 15 degrees.

The davits must be fitted with a gear of sufficient power to ensure that the boat can be turned out against the maximum list under which the lowering of the boat is possible on the vessel in question.

OTHER APPLIANCES EQUIVALENT TO DAVITS

Art. 50. Any appliance may be accepted in lieu of davits or sets of

davits if the administration concerned is satisfied, after proper trials, that the appliance in question is as effective as davits for placing the boats in the water.

The government of the high contracting party which accepts a new type of appliance shall communicate to the other contracting parties particulars of the appliance with details of the trials made.

LIFE-JACKETS AND LIFE-BUOYS

Art. 51. (1) A life-jacket of an appropriate type, or other appliance of equal buoyancy and capable of being fitted on the body, shall be carried for every person on board, and in addition, a sufficient number of life-jackets, or other equivalent appliances, suitable for children.

(2) Article XLV. of the annexed regulations fixes in accordance with the length of the ship the number of life-buoys of an approved type to be carried, and also the conditions with which life-jackets and life-buoys must comply, and in accordance with which they must be stowed.

EXISTING SHIPS

Art. 52. The government of each of the high contracting parties undertakes to apply to existing ships, as soon as possible and not later than the 1st July, 1915, all the provisions of the preceding articles of the present chapter, namely, articles 40 to 51 inclusive, requiring in the first place accommodation for all the persons on board in boats and rafts: provided that, in cases where the strict application of these principles would not be practicable or reasonable, the government of each of the high contracting parties has the right to allow the exemptions specified in article XLVI. of the regulations annexed hereto.

MEANS OF INGRESS AND EGRESS. EMERGENCY LIGHTING

Art. 53. (1) Proper arrangements shall be made for ingress and egress from the different compartments, decks, &c.

(2) Provision shall be made for an electric or other system of lighting, sufficient for all requirements of safety, in the different parts of both new and existing ships, and particularly upon the decks on which the life-boats are stowed. On new ships there must be a self-contained source capable of supplying, when necessary, this safety lighting system, and placed in the upper parts of the ship, as high as practically possible.

(3) The exit from every compartment must always be lighted by an emergency lamp, which shall be kept locked, and which shall be independent of the ordinary lighting of the ship. These emergency lamps must be supplied from the independent installation referred to in the preceding paragraph, if an independent circuit is employed for this purpose and if this installation works concurrently with the ordinary lighting of the ship.

CERTIFIED LIFEBOATMEN—MANNING THE BOATS

Art. 54. There must be, for each boat or raft required, a minimum number of certified lifeboatmen. The minimum total number of certified lifeboatmen is determined by the provisions of article XLVII. of the annexed regulations.

The allocation of the certified lifeboatmen to each boat and raft remains within the discretion of the master, according to the circumstances.

By "certified lifeboatmen" is meant any member of the crew who holds a certificate of efficiency issued under the authority of the administration concerned, in accordance with the conditions laid down in the aforementioned article of the annexed regulations.

Article XLVIII. of the regulations deals with the manning of the boats.

FIRE PROTECTION

Art. 55. (1) The carriage, either as cargo or ballast, of goods which by reason of their nature, quantity, or mode of stowage, are, either singly or collectively, likely to endanger the lives of the passengers or the safety of the ship, is forbidden.

This provision does not apply to the ship's distress signals, nor to the carriage of military or naval stores for the public service of the state under authorized conditions.

(2) The government of each high contracting party shall, from time to time by official notice, determine what goods are to be considered dangerous goods, and shall indicate the precautions which must be taken in the packing and stowage thereof.

(3) Article XLIX. of the annexed regulations indicates the arrangement to be made for the detection and extinction of fire.

MUSTER ROLLS AND DRILLS

Art. 56. Special duties for the event of an emergency shall be allotted to each member of the crew.

The muster list shall show all these special duties, and shall indicate, in particular, the station to which each man must go, and the duties that he has to perform.

Before the vessel sails, the muster list shall be drawn up and exhibited, and the proper authority shall be satisfied that the muster list has been prepared for the ship. It shall be posted in several parts of the ship, and in particular in the crew's quarters.

Articles L. and LI. of the annexed regulations indicates the conditions under which musters of the crew and drills shall take place.

CHAPTER VII—SAFETY CERTIFICATES

Art. 57. A certificate, called a "safety certificate," shall be issued, after inspection and survey, to every ship which complies in an efficient manner with the requirements of the convention.

The inspection and survey of ships, so far as regards the enforcement of the provisions of this convention and the annexed regulations, shall be carried out by officers of the state to which the ship belongs; provided always that the government of each state may entrust the inspection and survey of ships of its own country either to surveyors nominated by it for this purpose or to organizations recognized by it. In every case the government concerned fully guarantees the completeness and efficiency of the inspection and survey.

The safety certificate shall be issued either by the officers of the state to which the ship belongs, or by any other person duly authorized by that state. In either case the state to which the ship belongs assumes full responsibility for the certificate.

Art. 58. The safety certificate shall be drawn up in the official language or languages of the state by which it is issued.

The form of the certificate shall be that of the model given in article LII. of the regulations annexed hereto. The arrangement of the printed part of this standard certificate shall be exactly reproduced, and the particulars inserted by hand shall be inserted in Roman characters and Arabic figures.

The high contracting parties undertake to communicate one to another a sufficient number of specimens of their safety certificates for the information of their officers. This exchange shall be made so far as possible, before the 1st April, 1915.

Art. 59. The safety certificate shall not be issued for a period of more than twelve months.

If the ship is not in a port of the state to which it belongs at the time when the period of the validity of the safety certificate expires a duly authorized officer of this state may extend this period; but such an extension shall be granted only for the purpose of allowing the ship to complete its return voyage to its own country, and then only in cases in which it appears proper and reasonable to do so.

The extension cannot have effect for more than five months and the ship shall not thereby be entitled to leave its own country again without having obtained a new certificate.

Art. 60. The safety certificate issued under the authority of a contracting state shall be accepted by the governments of the other contracting states for all purposes covered by this convention. It shall be regarded by the governments of the other contracting states as having the same force as the certificates issued by them to their ships.

Art. 61. Every ship holding a safety certificate issued by the officers of the contracting state to which it belongs, or by persons duly authorized by that state, is subject in the ports of the other contracting states to control by officers duly authorized by their governments in so far as this control is directed towards verifying that there is on board a valid

safety certificate, and, if necessary, that the conditions of the vessel's seaworthiness correspond substantially with the particulars of that certificate; that is to say, so that the ship can proceed to sea without danger to the passengers and crew.

Art. 62. The privileges of the convention may not be claimed in favor of any ship unless it holds a proper valid safety certificate.

Art. 63. If, in the course of a particular voyage, the ship has on board a number of passengers less than the maximum number indicated in the safety certificate, and is, in consequence, in accordance with the provisions of this convention free to carry a smaller number of life-boats and other life-saving appliances than that stated in the aforementioned certificate, a memorandum may be issued by the officers or other authorized persons referred to in articles 57 (paragraph 3) and 59 above.

This memorandum shall state that in the circumstances there is no infringement of the provisions of the convention. It shall be annexed to the safety certificate and shall be substituted for it in so far as the life-saving appliances are concerned. It shall be valid only for the particular voyage in regard to which it is issued.

CHAPTER VII—GENERAL

Art. 64. The governments of the high contracting parties undertake to communicate mutually, in addition to the documents which, in this convention, are the subject of special provisions to that effect, all information which they possess affecting safety of life on those of their ships which are subject to the rules of this convention, provided always that such information is not of a confidential nature.

They will communicate to each other in particular:

(1) The text of laws, decrees and regulations which shall have been promulgated on the various matters within the scope of the convention;

(2) The description of the characteristics of new appliances approved in administering the rules of the convention;

(3) All official reports, or official summaries of reports, in so far as they show the results of the provisions of this convention.

Until other arrangements may be made, the British government is invited to serve as intermediary for collecting all this information and for bringing it to the knowledge of the governments of the contracting parties.

Art. 65. The high contracting parties undertake to take, or to propose to their respective legislatures, the measures necessary for the repression of infractions of the requirements imposed by this convention.

The high contracting parties will communicate mutually, as soon as possible, the laws and regulations which are issued for this purpose.

Art. 66. The high contracting parties which intend the convention to apply to the whole of their colonies, possessions and protectorates, or to one or to some of these countries, shall declare their intention either at

the time of signing these presents or subsequently. To this effect they shall be able either to make a general declaration embracing the whole of their colonies, possessions and protectorates, or to enumerate by name the countries or alternatively, to enumerate by name those which they intend to be excepted.

This declaration, unless it be made at the time of signing this convention, shall be made in writing to the government of Great Britain, and communicated by the latter government to all the governments of the other states parties to the convention.

The high contracting parties may also in the same way, provided that they comply with the provisions of article 69 hereafter, denounce this convention as regards their colonies, possessions and protectorates, or one or some of those countries.

Art. 67. The states which are not parties to this convention shall be allowed to accede thereto at their request. Their accession shall be notified through the diplomatic channel to the Government of Great Britain, and by the latter to the governments of the other states parties to the convention.

This acceptance will carry the full acceptance of all the obligations imposed by this convention and the full right to all the privileges specified therein. It will have full and complete effect two months after the date on which notification of the accession is sent by the government of Great Britain to the other governments of the states which are parties to the convention, unless a later date had been proposed by the acceding state.

The governments of the states which accede to the present convention shall annex to their declaration of accession the schedule provided for by article 3 of this convention. This schedule shall be added to those already deposited by the other governments. The British government shall transmit a copy thereof to the other governments.

Art. 68. The treaties, conventions and arrangements concluded prior to to this convention shall continue to have full and complete effect, as regards:

- (1) Ships excepted from the convention;
- (2) Ships to which it applies, in respect of subjects for which the convention has not expressly provided.

It is understood that, the subject of this convention being safety of life at sea, questions relating to the health and well-being of passengers, and in particular of immigrants, as well as other matters relative to their transport, continue subject to the legislation of the different states.

Art. 69. This convention shall come into force on the 1st July, 1915, and shall remain in force without any prescribed limit of time. Nevertheless, each high contracting party may denounce the convention at any time after an interval of five years from the date on which the convention comes into force in that state.

This denunciation shall be notified through the diplomatic channel to the government of Great Britain and by the latter to the governments of the other contracting parties. It shall take effect twelve months after the day on which the notification is received by the government of Great Britain.

A denunciation shall only affect the state which makes it, the convention remaining fully and completely operative as regards all the other states which have ratified it, or which have acceded thereto or which thereafter accede thereto.

Art. 70. This convention with the regulations annexed thereto shall be drawn up in a single copy which shall be deposited in the archives of the government of Great Britain. A true and certified copy shall be delivered by the latter to each of the governments of the high contracting parties.

Art. 71. This convention shall be ratified and the instruments of ratification, accompanied by the schedules specified in article 3, shall be deposited at London not later than the 31st December, 1914. The British government shall give notice of the ratifications and shall furnish a copy of each schedule to the governments of the other contracting parties.

Notwithstanding a failure to ratify on the part of a high contracting party, the convention shall continue to have full and complete effect as regards the contracting parties which ratify it.

Art. 72. To render ratification easier for a contracting state which, prior to the date of signature of this convention, has laid down requirements in regard to any matter within the scope of this convention, it is agreed that no ship which has complied with those requirements before the 1st July, 1915, may avail itself of the periods of grace allowed by the convention in order to cease to comply with those requirements.

Art. 73. Where this convention provides that a measure may be taken after agreement between all or some of the contracting states, the Government of His Britannic Majesty is invited to approach the said states with a view to ascertaining whether they accept the proposals made by one of these states for effecting such a measure. The Government of His Britannic Majesty will make known to the contracting states the result of the enquiries which it thus makes.

A state from which observations on the proposals in question do not reach His Britannic Majesty's Government within six months from the communication of these proposals will be presumed to acquiesce therein.

Art. 74. This convention may be modified at subsequent conferences, of which the first shall be held, if necessary, in 1920. The place and time of these conferences shall be fixed by common consent by the governments of the high contracting parties.

The governments may, through the diplomatic channel, introduce into this convention, by common consent and at any time, improvements which may be judged useful or necessary.

In witness whereof the plenipotentiaries have signed hereafter.
Done at London, 20th January, 1914.¹⁰

The regulations annexed to the foregoing convention are very full and technical, occupying 37 pages of the English statute book.¹¹ The statute to which the convention and regulations are appended as schedules covers fourteen pages and gives authority to the Board of Trade to make further rules to carry out the provisions of the convention on the part of Great Britain.¹² The provisions of the statute relating to manning, construction and equipment of passenger steamers are made to also apply to foreign ships and British ships not registered in the United Kingdom, which come into or proceed to sea from a port in the United Kingdom, in the same manner as if the ship were registered. The provisions of the act and the rules made thereunder are made to apply to all British possessions other than India, Canada, Australia, New Zealand, South Africa, and Newfoundland.¹³ Provision is also made for orders in council concerning the application and enforcement of the act in the British possessions.

Notwithstanding the great work done by the governments which have participated in the formulation of these conventions, rules and regulations, the need of a representative body, empowered to speak for all the nations and to decide questions as to which there is disagreement is very apparent. The rapidity with which new inventions have revolutionized the means of intercommunication and the probability of further changes in conditions affecting navigation render it necessary to revise, amend and repeal the laws of the sea from time to time. It is manifestly of prime importance that all rules relating to signals and calls should be uniform and uniformly enforced. At present each state is free to adopt or refuse the regulations proposed by others, no matter how useful or necessary they may be. Each party to a convention may denounce

¹⁰ Chitty's Statutes, 4 & 5 Geo. 5, c. 50, pp. 363 to 379.

¹¹ Chitty's Statutes, 18, 361 to 416.

¹² Id. 346 to 361.

¹³ Id. 359, 416.

it and be released from its obligations. If there is disagreement as to the meaning of any provision of a convention there is no tribunal to decide the question. Though the commercial nations are keenly alive to the necessity for laws of the sea and in fact enforce so many important regulations, they cannot fill the need by separate action. When their ships meet in mid-ocean each sails in accordance with the laws of its own country. Unless these laws correspond there is no law of safety for them, for diversity in signals would result in misunderstandings and disaster.

The foregoing conventions and regulations do not meet all the requirements of commerce for safety on the sea. While charts of the coasts of the leading nations have been made and while lights and buoys mark some of the dangers and indicate some of the safe routes to be followed, there are numberless rocks, reefs, and dangers in remote and unfrequented places that are not disclosed by charts nor indicated by any warning sign. There are numberless dangerous obstacles that might be removed and places needing lights and other warnings of danger. To meet the needs of all the combined aid of all is required. The Suez and Panama canals illustrate the advantages to be gained by removal of obstacles to navigation interposed by nature. No limit can be placed to the possible achievements of a combination of all the nations for the improvement of the ocean routes with incidental removal of obstacles interposed by land.

ENTRY IN THE PORT OF DESTINATION.

Having entered the territorial waters of the country to which the ship sailed, the ship still carries with it the law of its own country so far as it, the crew, and cargo are concerned, but it also becomes subject to the laws of the nation having jurisdiction over these waters. It must conform to all quarantine regulations designed to guard against disease, to all port regulations designed for safety, and to all the laws and regulations relating to the discharge of its passengers and cargo. The master of a vessel of the United States on arrival at a

foreign port is required to deposit his register, sea-letter and Mediterranean passport with the American consul of the port, to remain in his custody until the master produces to him a clearance from the proper officer of the port.¹⁴ To obtain this clearance he must comply with the laws and regulations of the country the port is in. A vessel arriving in a port of the United States must produce to the collector of the port the register, clearance and other papers granted to the foreign vessel at her departure from the port from which she has arrived, and the master must within forty-eight hours after such entry deposit these papers with the consul of the nation to which the ship belongs and deliver to the collector the certificate of the consul that the papers have been so deposited.¹⁵ Having complied with all quarantine and other port regulations, before the cargo of the ship can be unloaded the owner, consignee, or his agent must within fifteen days after the report of the master to the collector of the district, make entry thereof, specifying the name of the vessel and of her master, the port or place from which the merchandise was imported, the marks, numbers, denominations, and prime cost, including charges of each particular package or parcel whereof the entry shall consist, or, if in bulk, the quantity, quality, and prime cost, and must also produce the original invoices of the merchandise with the bills of lading for the same.¹⁶ No merchandise shall be brought into the United States, from any foreign port, in any vessel unless the master has on board manifests in writing of the cargo, signed by such master."¹⁷ The regulations relating to invoices, manifests, bills of lading, change of destination and other matters concerning owners, consignees, and their agents are very full and occupy many pages of the statutes. Having complied with all these requirements and paid or secured the payment of the duties on the merchandise, the collector may grant a permit to deliver the merchandise.¹⁸

¹⁴ Compiled Statutes of the United States, 1918, § 8055.

¹⁵ *Id.* § 7800.

¹⁶ Compiled Statutes of the United States, 1918, § 5481.

¹⁷ Revised Statutes of the United States, § 2806.

¹⁸ Compiled Statutes of the United States, 1918, § 5557.

Provisions are made for storage of goods in government warehouses and for transportation of merchandise in bond to interior ports. The government of the United States has, from the earliest times, collected a very large part of its revenue from duties on imports, and the title in the Compiled Statutes of "Collection of Duties upon Imports" fills 72 large, closely printed pages.¹⁹

Since the repeal of the corn laws in 1846 Great Britain has been the most liberal in the admission of foreign merchandise without the payment of duties of all the countries in the world, and has also been the leading commercial nation. Most of the other great nations derive a considerable part of their revenues from duties on imports, and each has its own system of collecting them. There is great diversity in the theories under which these taxes on imports are levied in the different countries ranging all the way from a small revenue tariff to prohibitive protection of domestic competitors. Each nation is recognized as having full right to impose either import or export duties on merchandise as it sees fit, even though the result is to exclude foreign goods from its markets or prevent foreign countries from buying its products. The general claim of nations in this regard is that they be treated as well as any other nation, and a common provision to this effect, termed the favored nation clause, is usually inserted in commercial treaties.

On the arrival in a port of the United States of a vessel from a foreign port the master is prohibited from allowing any person except a pilot, officer of the customs, health officer, agent of the vessel or consul to come on board or leave the vessel until it has been taken in charge by an officer of the customs, nor afterwards without leave of such officer until all the passengers with their baggage have been duly landed.²⁰ The master must submit to the officer of customs who first makes demand therefor for inspection, and shall subsequently deliver with his manifest of the cargo on entry, a correct list,

¹⁹ Id. pp. 847 to 919.

²⁰ Compiled Statutes of the United States, 1918, § 8006.

signed and verified on oath by the master, of all passengers taken on board the vessel at any foreign port or place, giving the name, age, sex, and other detailed information in the manner prescribed by the Secretary of Commerce and Labor.²¹ The admission of immigrants is regulated in much detail by statute, with the general purpose of excluding persons deemed undesirable, without restricting the immigration of Europeans who are sound mentally, physically and morally.²² When admitted into the United States, the immigrant may come and go within its boundaries when and where he will as freely as a citizen. Each nation has its own laws and regulations concerning the admission of foreigners and the conditions on which they may travel from place to place within the country. A traveler from one country to another is generally required to carry a passport issued by authority of his government. The Secretary of State of the United States issues the passports to citizens and others going abroad from this country, and the diplomatic representatives, and in their absence the consular officers of the United States in foreign countries, may issue passports in the countries to which they are accredited.²³

In their practical operation those provisions of the constitution of the United States which give the citizens of each state "all privileges and immunities of citizens of the several states" and secure freedom of commerce between the states have proved to be of the greatest value. Many obstacles of race prejudice, inherited animosity, and national greed and narrowness of view must be overcome before similar freedom can be accorded to the people of each of the nations of the earth with reference to every other nation. The sea can never be wholly free without freedom of access to the adjacent lands.

The right to freely navigate the open sea is of little value without free passage to and from the sea over intervening water-ways. Very many claims have been made to dominion over rivers and more or less definitely inclosed bodies of water.

²¹ Id. § 8010.

²² Id. Title XXIX.

²³ Id. § 7623.

Access to the Baltic Sea was for a long time denied by Denmark except on terms of payment of dues. These were finally done away with by treaty.²⁴ Turkey has long held both shores of the Dardanelles and Bosphorus, thereby controlling the entrance to the Black Sea. Though open to commerce in times of peace the passage has been closed during the great war. Many great rivers, the Rhine, the Danube, the St. Lawrence, the Mississippi, the La Plata and the Amazon, and others of less size but equal importance to the nations concerned, have been subjected to claims of the riparian proprietors of the lower reaches of them to exclusive right of navigation within their territorial limits. With few if any exceptions these rivers have, by international agreements, been opened to navigation by all the nations whose territories they touch, subject to regulations and moderate dues imposed by the governments having jurisdiction over them.²⁵

The Suez canal, connecting the Mediterranean and Red seas, and thus affording a short route from Europe to Asia, and the Panama canal connecting the Atlantic and Pacific oceans stand on a somewhat different footing from natural water-ways. They were constructed on land which was appropriated as the exclusive property of, and at the expense of, the proprietors. Under no accepted theory of international or private law can it be claimed that they are the common property of all nations, yet all nations need the facilities they afford for the accommodation of their shipping. When all the nations combine for mutual welfare the doctrine of eminent domain may, perhaps be invoked to make these artificial channels free to all, on payment of their fair value to the owners.

PIRACY

Until very recent times the dangers to merchant ships from piratical attacks were at some times and in some seas very considerable. Piracy is defined as acts of robbery and depredation upon the high seas which, if committed on land, would

²⁴ Taylor Int. Law, 280.

²⁵ Id. 282 to 288.

have amounted to felony there,²⁶ and a pirate as one who roves the sea in an armed vessel, without commission from any sovereign state, on his own authority, and for the purpose of seizing by force, and appropriating to himself, without discrimination, every vessel he may meet.²⁷ Various acts not falling strictly within these definitions have been declared piracy by statutes in Great Britain and the United States and in other countries. The essential difference between the hostile acts committed by pirates and by privateers and war ships is that the former act without governmental authority, on their own personal initiative, while the latter act under the authority of a recognized government. The pirate is regarded as the enemy of all mankind, and, as he has no right to display the flag of any nation, he is without protection from any government and subject to the authority of any nation that can capture or destroy him. His character being established there is no basis for international complications in dealing with him. Pirates have at times had something approaching a national organization. The earliest appearances of the Norsemen from the Scandinavian peninsula in the more southern states of Europe was as pirates, pillaging all with whom they came in contact. Their kinsmen, the Danes, were so classed when they made their first inroads into England. The Algerines preyed on the commerce of the Mediterranean indiscriminately during the early part of the nineteenth century, under the direction of the Dey. The land bases from which pirates conduct their operations are necessarily located in places not subject to efficient government. From very early times in the history of America the West India islands and the coasts of the Caribbean Sea and Gulf of Mexico were favorite resorts for pirates, some of whom were very successful in preying on the commerce passing through the Sea, Gulf and neighboring part of the Atlantic. This condition continued down to the time of the administration of President Monroe, with occasional instances since that time. In his message to Congress December 7, 1824, he said—"The force employed in the Gulf of Mexico and in

²⁶ Blackstone's Commentaries, 4, 72.

²⁷ Anderson's Law Dic.

the neighboring seas for the suppression of piracy has likewise been preserved essentially in the state in which it was during the last year. A persevering effort has been made for the accomplishment of that object and much protection has thereby been afforded to our commerce, but still the practice is far from being suppressed. From every point of view which has been taken of the subject it is thought that it will be necessary rather to augment than to diminish our force in that quarter. There is reason to believe that the piracies now complained of are committed by bands of robbers who inhabit the land, and who, by preserving good intelligence with the towns and seeing favorable opportunities, rush forth and fall on unprotected merchant vessels of which they make an easy prey. The pillage thus taken they carry to their lurking places and dispose of afterwards at prices tending to seduce the neighboring population. The combination is understood to be of great extent, and is the more to be deprecated because the crime of piracy is often attended with the murder of the crews, these robbers knowing if any survived their lurking places would be exposed and they be caught and punished. That this atrocious practice should be carried to such an extent is cause of equal surprise and regret. It is presumed that it must be attributed to the relaxed and feeble state of the local governments since it is not doubted, from the high character of the governor of Cuba, who is well known and much respected here, that if he had the power he would promptly suppress it. Whether those robbers should be pursued on land, the local authorities be made responsible for these atrocities, or any other measures be resorted to to suppress them is submitted to the consideration of Congress."²⁸ In a special message to Congress on the same subject on January 13, 1825, President Monroe asked authority to pursue offenders to the settled part of the island, make reprisal on the inhabitants or blockade the ports, as might be found necessary.²⁹ The next year President Adams, in his annual message of December 3, 1826, says—"The piracies with which the West India seas were for

²⁸ Messages and Papers of the Presidents, II. 826.

²⁹ *Id.* 846.

several years infested have been totally suppressed, but in the Mediterranean they have increased in a manner afflictive to other nations, and but for the continued presence of our squadron would probably have been distressing to our own."⁸⁰ Under Jackson a nest of pirates in Sumatra who had attacked American ships was destroyed,⁸¹ In recent years there have been no reports of piracies, but the great war has witnessed a destruction of merchant ships by submarines which renders all the robberies and depredations wrought by all the pirates that ever operated within historic times quite insignificant in comparison with it. This destruction has not been merely incidental to robbery, but has been wanton for the avowed purpose of destroying food and other supplies destined to or from the ports of the enemy. The essential quality of the acts of belligerents in preying on the commerce of the enemy and of pirates preying on whomsoever they can overcome are so similar in moral aspects as to be hard to differentiate. The Central Powers in the closing year of the war preyed on the commerce of all the other nations of the world, and during the course of the war destroyed more seagoing shipping than was in existence during the administration of President Monroe. The statutes of the United States relating to piracy⁸² are still in force but of very infrequent application.

It is pleasant to pass from a consideration of the crimes and malice of pirates and belligerents to still another convention designed to promote the welfare of those who sail the seas and preserve the property subjected to the perils of the ocean. The following convention requires navigators of all nations to be mutually helpful, and for the payment of fair compensation to those rendering assistance in saving property.

CONVENTION FOR THE UNIFICATION OF CERTAIN RULES WITH RESPECT TO
ASSISTANCE AND SALVAGE AT SEA

Article I. Assistance and salvage of seagoing vessels in danger of any thing on board, of freight and passage money, and also services of the

⁸⁰ *Id.* 929

⁸¹ *Id.* 1159.

⁸² Revised Statutes §§ 4293 to 4299.

same nature rendered to each other by seagoing vessels and vessels of inland navigation are subject to the following provisions, without any distinction being drawn between the two kinds of service and in whatever waters the services have been rendered.

Art. 2. Every act of assistance or salvage which has had a useful result gives a right to equitable remuneration.

No remuneration is due if the services rendered have no beneficial result.

In no case shall the sum to be paid exceed the value of the property salvaged.

Art. 3. Persons who have taken part in salvage operations, notwithstanding the express and reasonable prohibition on the part of the vessel to which services were rendered, have no right to any remuneration.

Art. 4. A tug has no right to remuneration for assistance to or salvage of the vessel she is towing or of the vessel's cargo except where she has rendered exceptional services which can not be considered as rendered in fulfilment of the contract of towage.

Art. 5. Remuneration is due notwithstanding that the salvage services have been rendered by or to vessels belonging to the same owner.

Art. 6. The amount of remuneration is fixed by agreement between the parties, and, failing agreement, by the court.

The proportion in which the remuneration is to be distributed among the salvors is fixed in the same manner.

The apportionment of the remuneration among the owner, master, and other persons in the services of each salving vessel is determined by the law of the vessel's flag.

Art. 7. Every agreement as to assistance or salvage entered into at the moment and under the influence of danger can, at the request of either party, be annulled or modified by the court if it considers that the conditions agreed upon are not equitable.

In all cases, when it is proved that the consent of one of the parties is vitiated by fraud or concealment, or when the remuneration is, in proportion to the services rendered, in an excessive degree too large or too small, the agreement may be annulled or modified by the court at the request of the party affected.

Art. 8. The remuneration is fixed by the court, according to the circumstances of each case, on the basis of the following considerations: (a) First, the measure of success obtained, the efforts and the deserts of the salvors, the danger run by the salvaged vessel, by her passengers, crew, and cargo, by the salvors and by the salving vessel, the time expended, the expenses incurred and losses suffered, and the risk of liability and other risks run by the salvors, and also the value of the property exposed to such risks, due regard being had, the case arising, to the special adaptation of the salvor's vessel; (b) second, the value of the property salvaged.

The same provisions apply to the apportionment provided for by the second paragraph of article 6.

The court may reduce or deny remuneration if it appears that the salvors have by their fault rendered the salvage or assistance necessary, or have been guilty of theft, receiving stolen goods, or other acts of fraud.

Art. 9. No remuneration is due from the persons whose lives are saved, but nothing in this article shall affect the provisions of the national laws on this subject.

Salvors of human life who have taken part in the services rendered on the occasion of the accident, giving rise to salvage or assistance, are entitled to a fair share of the remuneration awarded to the salvors of the vessel, her cargo, and accessories.

Art. 10. A salvage action is barred after an interval of two years from the day on which the operations of assistance or salvage are terminated.

The grounds upon which the said period of limitation may be suspended or interrupted are determined by the law of the court where the case is tried.

The High Contracting Parties reserve to themselves the right to provide by legislation in their respective countries that the said periods shall be extended in cases where it has not been possible to arrest the vessel assisted or salvaged in the territorial waters of the State in which the plaintiff has his domicile or principal place of business.

Art. 11. Every master is bound, so far as he can do so without serious danger to his vessel, her crew and passengers, to render assistance to everybody, even though an enemy, found at sea in danger of being lost.

The owner of the vessel incurs no liability by reason of the contravention of the foregoing provisions.

Art. 12. The High Contracting Parties whose legislation does not forbid infringements of the preceding article bind themselves to take or propose to their respective legislatures the measures necessary for the prevention of such infringements.

The high Contracting Parties will communicate to one another, as soon as possible, the laws or regulations which have already been or may be hereinafter promulgated in their States for the purpose of giving effect to the above undertakings.

Art. 13. The convention does not affect the provisions of national laws or international treaties as regards the organization of services of assistance and salvage by or under the control of public authorities, nor, in particular, does it affect such laws or treaties on the subject of salvage of fishing gear.

Art. 14. This convention does not apply to ships of war or to Government ships appropriated exclusively to a public service.

Art. 15. The provisions of this convention shall be applied as regards all persons interested when either the assisting or salvaging vessel or the

vessel assisted or salvaged belongs to one of the contracting States, and in any other cases for which the national laws provide.

Provided always that:

1. As regards persons interested who belong to a noncontracting State the application of said provisions may be made subject by each of the contracting States to the condition of reciprocity.

2. Where all the persons interested belong to the same state as the court trying the case, the provisions of the national law and not of the convention are applicable.

3. Without prejudice to any wider provisions of any national laws, article 11 only applies as between vessels belonging to the States of the High Contracting Parties.

Art. 16. Any one of the High Contracting Parties shall have the right three years after this convention comes into force to call for a fresh conference with a view to seeking such ameliorations as may be brought therein, and particularly with a view to extending, if possible, the sphere of its application.

Any power exercising this right must notify its intention to the other powers, through the Belgian Government, which will see to the convening of the conference within six months.

Art. 17. States which have not signed the convention are allowed to adhere to it on request. Such adhesion shall be notified through the diplomatic channel to the Belgian Government and by the latter to each of the other Governments. It shall become effective one month after the sending of the notification by the Belgian Government.

Art. 18. The convention shall be ratified.

After an interval of at most one year from the day on which the convention is signed, the Belgian Government shall place itself in communication with the Governments of the High Contracting Parties which have declared themselves prepared to ratify the convention with a view to deciding whether it is expedient to put it in force.

The ratifications shall, if so decided, be deposited forthwith at Brussels, and the convention shall come into force a month afterwards.

The protocol shall remain open another year in favor of the States represented at the Brussels Conference. After this interval they can only adhere to it on conforming to the provisions of Article 17.

Art. 19. In the case of one or other of the High Contracting Parties denouncing this convention, such denunciation shall not take effect until a year after the day on which it has been notified to the Belgian Government, and the convention shall remain in force as between the other Contracting Parties.

In witness whereof the plenipotentiaries of the respective High Con-

tracting Parties have signed this convention and have affixed their seals thereto.

Done at Brussels, in a single copy, the 23rd September, 1910.

(Signatures).⁸⁰

Some of the provisions of this convention have been enacted into statutory law by the Congress of the United States and its provisions in other particulars accord with the laws of the United States.⁸¹ By the Act of April 14, 1792, consuls and vice-consuls were charged with duties concerning stranded vessels as follows:

"Consuls and vice-consuls, in cases where vessels of the United States are stranded on the coasts of their consulates respectively, shall, as far as the laws of the country will permit, take proper measures, as well for the purpose of saving the vessels, their cargoes and appurtenances, as for storing and securing the effects and merchandise saved, and for taking invoices thereof: and the merchandise and effects saved, with the inventories thereof so taken, shall, after deducting therefrom the expenses, be delivered to the owners. No consul or vice-consul shall have authority to take possession of such merchandise, or other property, when the master, owner or consignee thereof is present or capable of taking possession of the same."⁸²

It is not so very long ago that in many localities on coasts where ships were often wrecked the inhabitants pillaged the wrecked vessels and sometimes robbed and even murdered the people who fell into their hands. The name wrecker came to mean land pirate. A service is now maintained by the Government of the United States along its coasts for the assistance of wrecked vessels. Life saving stations equipped with modern appliances for taking off the passengers and crews and rendering assistance to all ships in distress are maintained at the expense of the government. The service is under the supervision of a general superintendent and the statutory provisions on the subject are very full.⁸³

The general principles relating to salvage are that persons rendering assistance to ships in distress or great danger from

⁸⁰ Senate Documents, 3rd Session, 62nd Congress, 10, 137.

⁸¹ Compiled Statutes of 1918, §§ 7991-7992, 7993 and 7994.

⁸² Revised Statutes, § 4238.

⁸³ Compiled Statutes of 1918. Title L. V. Ch. C.

any cause who are at the time under no employment or sustain no relation rendering it their duty to give assistance, and who do voluntarily give effective aid are entitled to compensation for their services. The convention for the safety of life at sea, copied above, leaves it no longer optional with the masters of ships on the ocean whether they will give aid or not. All masters of ships flying the flags of any of the nations which are parties to this convention must respond to calls for aid from ships in distress. The master of the vessel in distress may designate which of several vessels receiving his signal shall be required to give aid and which may proceed on their voyages, but all must respond to the signal. The foregoing convention deals mainly with the questions relating to compensation to the salvors. It recognizes the unequal positions of the salvors and those in distress and renders contracts for compensation open to review by the courts of their fairness. The need of courts having jurisdiction of ships of all nations and their crews is very forcibly presented by this treaty. The salvage of a ship and cargo may give rise to conflicting claims of citizens of many nations and the jurisdiction of any court be inadequate to settle all the questions presented. The convention binds only the parties to it. Some of the parties to a case of salvage may be citizens or subjects of the nations bound by the convention and others not. In such a case either the convention must be extended to bind those not parties to it, or disregarded and the case be decided in accordance with the recognized principles of international law, or one rule applied to one part of the case and a different rule to another part. The generally accepted rule is that no compensation is due for saving life but only for saving property. Slaves being regarded as property, rather than human beings, compensation was given for saving them.³⁴ In England the Merchant Shipping Act of 1854 allows salvage for the preservation of human life, with priority over all other claims for salvage where the property is insufficient.³⁵ No

³⁴ *Bass. v. Five Negroes*, 2 Fed. Cas. No. 4434. *The Mulhouse*, 17 Fed. Cas. 9,910.

³⁵ *The Cairo*, L. R. 4. *The Thomas Fielden*, 32 L. J. Adm. 61. *Silver Bullion*, 2 Spinks, 70.

claim for salvage can be maintained unless the aid given has contributed to the actual preservation of property in peril. The master of a vessel may refuse aid tendered except in cases of extreme danger where assistance is needed for the preservation of life or property.

The principles applied by the courts in awarding compensation for salvage are somewhat different from those ordinarily applied to the determination of compensation for other services. Compensation for salvage is not confined to wages for the labor performed, but includes also reward for the risk of life and property involved, as an inducement to the performance of such services.³⁶ Where compensation is allowed for saving human life it may be charged against not only the ship saved but also against the cargo.³⁷ It is not a personal liability of the persons whose lives have been saved. A salvage service carries with it a maritime lien on the property saved, which in England and the United States is enforced by the courts having admiralty jurisdiction.³⁸

The convention copied above does not cover the whole field of claims for salvage. In fact it adds very little to the international law on the subject. Claims of this kind are very numerous in the courts of all maritime countries and the topic of salvage is a very prominent one in the books relating to admiralty jurisdiction. Cases in great number have been decided by the courts of England and the United States and are reported in the books. There is not entire harmony in the rules applied by the English-speaking nations, but salvage claims are disposed of by the courts and very rarely if ever lead to serious international complications. Nevertheless, where ships flying the flags of different nations are involved in a controversy concerning salvage the questions arising are strictly international in character and a matter of common concern to all nations. A review in detail of the cases decided is beyond the scope of this work which deals only with the very general aspects of the subject.

³⁶ *The Blackwell*, 10 Wall. 1. *The Flottbek*, 55 C. C. A. 448.

³⁷ *The Annie*, 12 P. D. 50. *The Renpor*, 8 P. D. 115.

³⁸ *Chapman v. The Greenpoint*, 38 Fed. 671.

FISHERIES

The accepted rule of both municipal and international law that wild things are not the property of any one until taken possession of applies to sea fish and mammals of the sea. While many of the most valuable fisheries are so situated that there is no conflict between nations with reference to them, some of them have given rise to bitter controversies. Many of the fisheries in the seas surrounding Europe are accessible to more than one nation and extend more than a marine league from the coast line. The use of these fisheries has given rise to many conflicting claims. The fishermen of Great Britain, France, Belgium, The Netherlands, Germany, Denmark, Sweden and Norway all have access to the North Sea, and are equally entitled to engage in the mackerel, herring and other fisheries away from the coasts. It is evident that all have common interests, and numerous treaties and conventions have been entered into to regulate their operations and provide for their safety. In the foregoing convention of London there are many provisions relating to fishing vessels and the care to be taken by other ships to avoid injury to them, their lines and nets. Though the other seas are not surrounded by so many populous sovereignties and may not have as valuable fisheries, it is still important that the fishermen of each nation operate with due regard to the rights of those of other nations, and that all observe the same rules for their common safety. The more distant fisheries off the coasts of Iceland and North America have given rise to controversies between European countries, and between Great Britain and the United States which it has been found necessary to settle either by treaty or by arbitration.

The whales, seals, and other sea mammals have great value and swim far out at sea where they are liable to be taken by the hunters of any nation. The controversy between Great Britain and the United States with reference to the seals in Behring Sea illustrates the necessity for some general authority to prescribe laws for the sea that shall be binding, not merely on two or a few nations that enter into a treaty on the subject, but on all the nations of the earth alike. Without effi-

cient protection seals and whales will soon become extinct. It may be that they consume more than their value in food fish, and that in time it will prove of general advantage to exterminate them, but the whole subject should be considered and dealt with by competent representatives of the interests of all, and such action be taken as will promote the general welfare.

The great importance of fish as human food has been recognized by man in all stages of civilization. The great ocean seems too large a field for human domination and supervision, yet it is manifestly possible to do much to prevent wanton destruction of the valuable fish, to destroy many of their worst enemies, and to promote the multiplication of the most valuable varieties. The peculiar habits of the salmon, which spawns and hatches in the fresh water of the rivers and then swims out and disappears in the ocean, there to remain until it is four years old and ready to return and deposit its spawn, have been observed, and show the necessity for sparing enough to continually restock the rivers and undiscovered feeding grounds of the sea. The responsibility of preserving the supply of this favorite fish on the northwestern coast of America rests on the United States and Canada, which, having control of the whole coast, can regulate the fisheries on it. The breeding habits of other varieties of food fish may not be so easily ascertained, but it would seem certain that much can be gained by concerted investigation into the habits and needs of sea fish and then taking such measures as will tend to multiply the valuable and destroy the useless ones. Much of value has already been learned, but as yet there is no common agency authorized to take needed measures to promote the general interest of all. It is impossible to place any limit on the quantity or value of the supplies of food fish which the seas may be made to produce, or on the improvements which may be made in methods of taking and distributing them. Distance of the source of supply from the market has already ceased to be even a serious obstacle to the use of the salmon of the Pacific coast. By methods now in use it is entirely practicable to utilize a favorable source of supply in any part of the world.

It is quite easy to see how the people of all countries may promote their mutual interests in the fisheries of the seas by their combined efforts.

TELEGRAPHS: CABLE AND RADIO

Great inventions breed international problems. The first submarine cable was laid in 1858, apparently without much concern over the question of right to use the bed of the ocean for that purpose. This cable worked only a few weeks and it was not until July 27, 1866, that permanent communication between Europe and America by telegraph was established through a new cable. Other projects soon followed and attention was directed to the legal status of the companies and their property. The promoters of the enterprises were confronted with a theretofore unconsidered question of title, namely, who owns the bed of the ocean? To this question there could be but one answer, all the nations of the earth. A franchise to lay and maintain a cable across the ocean connecting Europe and America could not be granted even by all the nations of Europe and America combined, for Asia and Africa had equal right to every part of the open sea. The general international convention referred to above³⁹ was therefore obtained in 1885. Since then many cables have been stretched between continents and by means of them instant communication can now be had with the most remote centers of population. While these cables have been laid with the sanction of a general treaty, they were without the protection of a government having full dominion over the ocean. The nations had joined in giving consent to the enterprises but had established no court or other agency for their protection. Acting separately some of the nations have enacted laws from time to time for the protection of such cables,⁴⁰ but there has been no international congress authorized to legislate on the subject. Whether cables will continue to multiply or give way to the wireless system remains to be seen. The cable is useful only in transmitting messages across the water. It does not

³⁹ *Supra*, p. 109. ⁴⁰ Compiled Statutes of U. S. 1918, §10087 to 10099.

afford a means of communication with shipping. It has the advantages of secrecy, reliability and permanence.

Radiotelegraphs have recently come into great prominence, especially as a means of communication with and between ships on the seas. The convention signed at London July 5, 1912,⁴¹ makes very full provisions for their use at sea. It is only possible to take full advantage of this means of communication by adopting a code of signals and a system of regulations to be used and observed by the ships of all nations. The subsequent convention providing for safety of life at sea,⁴² makes wireless equipment compulsory on vessels carrying fifty or more persons. By this means communication may be had across the water from land to land, from land to ship, or from ship to ship. Ships equipped with the necessary apparatus and within the range of their installations may communicate without knowledge of the location of each other and without any other previous understanding than that contained in the international regulations which it is the duty of all operators of all nations to study and understand. The code of signals prescribed by the convention is a universal language for all who sail the seas, through the use of which they may hold communication over long distances with perfect understanding of each other, though they speak different languages and are unable to converse when they meet face to face. The adoption of this universal language is a prerequisite to the efficient use of this great invention. It is especially appropriate that it should first come into use on the waters, which are the common property of all.

These conventions have been given the full force of statutory as well as treaty obligation in the United States and in Great Britain.⁴³ While the courts of the United States and Great Britain have power to enforce these rules against owners, masters and officers of their own ships, they have no jurisdiction over the ships of other nations. Each nation must be looked to separately to take all necessary measures to carry

⁴¹ *Infra*, p. 416. ⁴² *Supra*, p. 190.

⁴³ Compiled Statutes of the United States, 1918, §§ 8262 to 8267 and 10100 to 10108.

the conventions into effect. If disaster comes to a vessel of one nation because the officers of a ship of another nation have not performed their duty in accordance with the treaty, recourse can only be had through the government of the offending party. The need of an international tribunal with power to construe the law and enforce uniform application of it is manifest. It is also apparent that new inventions and changing conditions render frequent amendments to the regulations desirable, and that there should be an international administrative body clothed with power to deal with all technical questions relating to the radiotelegraphic service.

THE BED OF THE SEA AND OCEAN PRODUCTS OTHER THAN FISH

There has been little or no controversy over the title to the bed of the ocean. The depth of the water covering most of its area is so great, from two to five miles, that it offers no field for present human operations. It is only in exceptional places, where there is an area of shallow water outside the territorial limits of any nation, that conflicting claims have been made, and these have generally been over fisheries. If it be not merely poetic but also true that "Full many a gem of purest ray serene the dark unfathomed caves of ocean bear," the difficulties attending the work of gathering them now appear insurmountable. Most of the marine plants of which use is made are found near the shore, and are of too low value to arouse any controversy over their use. It would be exceedingly hazardous to assert however, that there are no parts of the bed of the ocean outside the territorial waters of any country that will not be found of great value at some future time. With the spread of civilization over the whole of the land and increased specialization of industry, commerce will doubtless develop in distant seas and pass over new routes. That valuable discoveries of many kinds will be made and utilized in remote and unfrequented parts of the seas appears highly probable. If so it will be incumbent on the society of nations to prescribe the laws governing their use.

It is already known that there are many submerged rocks

and reefs which endanger shipping in places where no nation is willing to undertake the task of either removing them or marking them with lights and buoys to warn of their dangers. By their combined and concerted efforts the nations may easily cause charts of the whole ocean to be completed, and safe lanes of travel to all countries to be provided and properly marked.

The great rivers are constantly carrying vast quantities of valuable fertilizers to the sea, and depositing them far beyond the three mile limit. From the mouths of some of these rivers shallow water extends long distances from the coast. It seems not at all improbable that profitable uses for the bed of this part of the ocean may be found, and that jurisdiction over it will need to be given to the nation owning the coast, or that the society of nations regulate its use.

SANITATION

Great ships carrying the population of whole villages now cross the ocean in a few days. They may carry also the germs of all the diseases that prevail in the countries from which they come. Vermin and the seeds of noxious weeds and plants are carried with other freight. Rats carrying bubonic plague may take passage in the vessel's hold and spread the disease in distant lands. Mosquitoes with the yellow fever virus may infest the cabins and decks and do their deadly work in the foreign port. Cholera, smallpox, and other dreaded diseases may be carried wherever the ship sails. The sanitary conditions on shipboard are as various as the people who sail the seas, varying from extreme filthiness to model cleanliness. No nation acting separately can prescribe and enforce all needed regulations for its own protection.

Fear of the bubonic plague and the Asiatic cholera has induced the nations to join in sanitary conventions.⁴⁴ While great good has doubtless resulted from the measures taken pursuant to them, they lack much of covering the whole field of international sanitation. Rules applicable to every port from which contagions and epidemics are to be apprehended

⁴⁴ *Infra*, p. 383.

are needed. The enforcement of such rules should not be left to local authorities who may be interested in evading them, but should be under the supervision of competent officers acting in behalf of all the nations affected. Nor should inspection and supervision be necessarily confined to the ports. Those charged with the duty of enforcing the sanitary regulations should have authority over the ships of all nations on any part of the sea. It is equally apparent that the formulation of international sanitary regulations by treaties which either party may abrogate is inadequate and unsatisfactory. Authority to act with promptness in emergencies is of the utmost importance. With present means of communication by telegraph it is entirely possible for a board or commission having adequate powers to act promptly and efficiently, but this cannot be done if it is hampered by national boundaries or required to wait for a new treaty to meet a new condition.

Prior to the discovery of America the ocean interposed a complete barrier to all intercourse and communication of disease from continent to continent. Now it brings all the nations together and passes disease and death from one to another as well as supplies of food, clothing and useful articles of all kinds. Year by year intercourse increases until each nation finds itself involved in the concerns of all the others.

THE UNSEEN NATURAL FORCES

Though manifestations of the effects of electrical force have always been obvious to the lowest savages, little or nothing concerning the laws governing its action was known until very recent times. It can hardly be said that the nature of electricity is now understood, but much is known of the methods by which its action may be induced and controlled. It is also known that it pervades the whole surface of the earth, and conjectured that it is diffused throughout the whole universe. It is the most convenient medium known for the conversion of heat into power or light and of power into heat or light. The first great practical use made of it was for the transmission of messages through wire connections. The

broken current controlled by instruments made possible a telegraphic alphabet which may now be transmitted around the world almost instantaneously. Since the laying of the ocean cables the news from all parts of the world is gathered and printed daily. The newer method of wireless telegraphy makes possible the transmission of messages in all directions to any station equipped to receive them. Thus the unseen electrical current or wave enables distant friends or foes to talk with each other at any time. The telephone dispenses with the telegraphic alphabet and enables people to converse directly and hear each other's voices. The electric force which is the medium of communication is a common possession of all the people of all the nations, which cannot be monopolized so far as we know. The advantages to be derived from it are dependent on the apparatus for sending and receiving messages and a common language for all who use it. The dots and dashes of the telegraph may become a universal written language, but at present the operator must make the translations from and to the sender and the receiver of the message. The convention for the safety of life at sea requires all operators of radiotelegraphs to be conversant with the meaning of the signals, no matter what language he speaks. No other discovery has done so much to bring distant people together and induce good understanding between them as that of the telegraph. Through it and the telephone electrical force becomes a living bond of union capable of extension to the most remote parts of the earth.

It is not alone as a medium of communication that electrical force is a means of binding distant people to each other. Waterfalls may be changed to terms of electric currents, and these in turn to power and motion in distant factories, to force propelling cars and vehicles on all kinds of roads, to light in buildings and streets, to heat in kitchen or any other room, or to extract from the air its unseen properties or minerals from their ores. The source of power may be far removed from the place of use, and it may be transmitted from the mountain regions of one nation to the plains of another. Although so much has already been accomplished in the em-

ployment of electrical force it is manifest that its uses may be multiplied indefinitely with untold benefit to mankind. To realize these advantages wide concert of action and perfect understanding between all who are concerned is necessary.

Magnetic attraction and repulsion are unseen forces akin to electrical force the earliest important use of which was in the mariner's and surveyor's compasses. It is of great importance in navigation and serves the ships of all nations alike. Unlike the telegraph the compass serves each ship separately, but it gives like information to each and refers both to a common standard of direction.

Gravitation is another unseen force, always in action everywhere. Acting in waterfalls or descending masses of any kind, it is a source of power capable of direct application to machinery for the use of it through the various appliances of mills or factories, or it may be converted at once into electrical force and applied in any way and for any purpose that such force may be used. Water is now the principal medium through which the force of gravity is converted into other terms of power, but by the use of inclined planes and other devices coal and rock obtained on the mountain side may be made to generate power as they descend on their way to market. Transmission of this power after conversion into electrical force may be made by wire for distant uses from regions where it could not well be utilized.

These are some of the unseen forces of nature which now serve mankind. It would be rash indeed to say that there are no others capable of doing so. The sun gives light, heat and power, and with them life and energy to all living things. What unseen and uncomprehended forces are concealed in its rays from human eyes no man knows, but when all nations join in the search for knowledge of natural forces and the laws governing them with the same spirit that has given us modern progress along these lines, it may confidently be expected that other marvels of progress will result.

THE AIR

Free as the air is an oft used expression conveying the idea that the air is above human domination, yet the air has already been converted, not only into a highway, but a battle-field. Aerial navigation is already an established fact. The ocean merely washes the coasts of the nations that border on it, but the air envelops them all. Ships must stop at the water's edge, but air crafts may sail over, above and beyond a neighboring state, by day or by night, below or above the clouds. To maintain its ownership from the center of the earth to the stars a nation must build its barriers to command the air as well as the land and water. If the deveopment of air service for peaceful purposes proceeds as rapidly as it has for war it will be necessary for the nations to reconstruct the governmental machinery now employed to collect duties, exclude foreigners and their merchandise and confine citizens and their goods at home. The boundary lines of the small states of Europe will not be traced where they can be discerned in the air, and air ships may pass across them from country to country without regard to local regulations. Efficient government of the ocean requires the united authority of all, but each nation may control the shipping that comes to and goes from its ports. The air craft, however, may pass over the state in utter contempt of all its laws until some means of intercepting it is devised and its use made practicable.

The air may also carry poison and disease germs from state to state. The great epidemic of influenza through which we are just passing has been world-wide. Whence it has proceeded and what has been its cause no one seems to know. Apparently the contagion has been in the air. Whether this be so or not, it is certain that each nation is interested in the purity of the air that blows from a neighboring state, and that it may be contaminated by disease germs or poisonous gases or in other disagreeable though less dangerous ways. The smoke of forest fires in Canada sometimes darkens the air for many hundreds of miles across the border. The smoke and noxious gases generated in smelting ores and various manufacturing

operations may destroy crops and render homes uninhabitable across national boundaries. It has been demonstrated that the air can be contaminated by noxious gases for long distances and to such extent as to destroy human life. The air we breathe is more truly a common possession of all mankind than any other thing, and all nations are vitally interested in preserving its purity.

With the increase of population and of means of travel and communication conflicting claims to natural wealth and the common property multiply. Regulations concerning the occupancy of land begin with the allotment of hunting grounds to the tribe, then of pastures to the herdsmen and on through the various stages of settlement, cultivation and city-building till the modern complex system of titles, leases, trusts, liens and encumbrances on clearly designated tracts is developed. New inventions bring into being intangible property, often of great value when protected by the laws of a great nation. Such laws are now being extended by treaty from nation to nation. With the increase of dealings, business and social relations between the people of different nations, questions as to their respective rights multiply. Diplomats have done much to simplify and make certain the rights of the parties by treaties and conventions, but questions arise as to the interpretation and application of these which must be settled in some manner. The newer nations have required capital for the development of their resources and this has been furnished by the people of the European nations in many ways and for a great multiplicity of uses. Payment of debts and performance of contracts have not always been made according to agreement. Where the debtor or delinquent is a sovereign nation or where the courts of a debtor nation refuse to compel performance of their obligations by the citizens of their country, international controversies arise. When to these are added the many conflicting claims to the use of the common property of all the nations and the ambitions of statesmen to extend the possessions and influence of their own nation at the expense of their neighbors, the volume of matters for adjustment through diplomatic channels becomes very great. Most

of these in recent years have been satisfactorily disposed of by direct agreement between the nations concerned, but it has not always been possible for the parties to come to a direct and satisfactory understanding. Statesmen having the welfare of humanity at heart have therefore sought to evolve a system through which such controversies could be settled without resort to force with very gratifying results in some instances and sore disappointment in others.

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CHAPTER VI

SETTLEMENT OF INTERNATIONAL DISPUTES BY ARBITRATION AND MEDIATION

In the absence of a superior having authority over both parties to the controversy and backed by ample power to enforce obedience by them to his decisions, arbitration and mediation offer alternatives that are better than war. They are, however, in all respects primitive and rudimentary. They afford no protection whatever against determined aggression. Neither party can compel his adversary to arbitrate. Before anything further is done the parties must agree to arbitrate, agree on the question to be submitted to arbitration, and agree on the manner in which the tribunal shall be selected.

These difficulties can be overcome, and in fact interpose no serious obstacle, if the difference is merely one honestly entertained either as to a matter of law or of fact and both parties sincerely desire an amicable adjustment of it. The responsible head of the government of any civilized state ought to consent to arbitrate any question rather than plunge his country into war, but recent history proves that nations that have made long preparation for a conflict and regard the time ripe for their warlike enterprises, ignore all moral and contractual agreements to arbitrate, especially when there is no moral or legal basis for their demands. But where the nations are truly friendly the submission of their differences to mutual friends as arbitrators is natural, easy and effectual. In the settlement of private controversies arbitration is sometimes preferable to submission to the ordinary courts of justice. Where the matter in controversy relates to some technical matter, or the customs prevailing in a particular trade or business, the parties can usually select an arbitrator who is more competent to decide than a judge who deals with all kinds of controversies. Arbitration is often a much more speedy method of determining

a question than a trial in a court which has its formal requirements allowing time for each step in the progress of the case. In commercial matters quick decision is often of vital interest to both parties, especially when the disposition of perishable property is involved. Commercial bodies sometimes give the needed sanction to the decisions of arbitrators chosen in accordance with their by-laws by suspension or denial of the privileges of their organization to members who refuse to arbitrate, or who fail to comply with the awards of the arbitrators. Arbitration also has the very great advantage of saving to the parties the costs and expenses of litigation in the courts.

Nevertheless arbitration cannot be made to supply the place of courts vested with full power to administer the law and enforce obedience to it. The best method of settling a question arising between two parties is for them to agree on a disposition of it. Most questions arising between nations are so settled now. When they are unable to agree or compromise their differences, friendly mediation by which both are given the benefit of the impartial advice of a mutual friend, is often a very effectual and satisfactory method of adjusting a controversy. The mediator is often able to make a party see the merits of the other party's claim by presenting it in a different manner and freed from all feeling of interest or advantage. (Mediation, however, to be serviceable must be really inspired by friendship for both parties and felt by them to be so. In dealings between nations one who undertakes to act as mediator is liable to be suspected of selfish and ulterior motives. The most effectual mediation is by the powerful nations in the affairs of the weaker ones. The results of such mediation will be good or bad according to the real purposes of the mediator.)

In the administration of the law between private parties mediation has no recognized place, but the settlement of disputes and misunderstandings of all kinds through friendly counsel is, and always has been, of very common occurrence. Persons occupying special relations of friendship, confidence, or business connection, are often able to bring about very happy solutions of differences and disputes. On the other hand mischievous intermeddling with the affairs of others is

productive of much strife and bitterness. This kind of interference is not really mediation, for its purpose usually is to accomplish some other end than the settlement of a controversy already existing.

Mediation, however, now has a place in international law. Sovereigns, especially autocrats, were formerly very sensitive about any intermeddling with their affairs by third parties, and offers of mediation were usually resented. The Pope has sometimes been able to aid Catholic states in the settlement of their differences by reason of his position as the spiritual head of the Church, and there are many instances of successful mediation by others, but the right of a nation to offer its friendly offices to prevent a conflict was not established. The Treaty of Paris of 1856 settled the terms of peace of the Crimean war, in which France and Great Britain had forcibly intervened to save Turkey and preserve the balance of power. The 23rd Protocol of this is as follows: "Whereupon the Plenipotentiaries (i.e., of Austria, France, Great Britain, Prussia, Russia, Sardinia, Turkey) do not hesitate to express, in the name of their Government, the wish that States between which any serious misunderstanding may arise should, before appealing to arms, have recourse, as far as circumstances might allow, to the good offices of a friendly Power. The Plenipotentiaries hope that the Governments not represented at the Congress will unite in the sentiment which has inspired the wish recorded in the present Protocol."¹ This was not a binding agreement between the powers represented who joined in it, but it was a suggestion of the usefulness of mediation, made to encourage resort to it. The Hague convention for the settlement of international disputes gives mediation a definite place and character in the dealings of nations with each other. Title II deals with the subject of good offices and mediation and commits all the powers to its use and encouragement. It gives powers which are strangers to the dispute the right to offer their good offices or mediation, before or during hostilities, and provides that such an offer can never be regarded as an unfriendly act. There are ample

¹ Halleck's Int. Law, I, 499.

reasons for giving greater encouragement to mediation in the disputes between nations than to it in disputes between private persons. Disputes between nations may lead to war if they are not settled. No such result is to be apprehended from unsettled disputes between private persons. If these cannot agree there are courts vested with ample power to determine and enforce their rights, no matter how important to them the matter in controversy may be, or how bitter their feelings in regard to it. But in the case of a dispute between nations there is no court to resort to. The nations as to each other are in a state of anarchy, mitigated only by the principles generally accepted as international law, the treaties made between them, and the voluntary submission by each of them to these principles and the voluntary performance of their agreements. The general public is interested in the settlement of all private disputes and the administration of justice between all its members. It therefore has provided its system of courts, vested with power to determine all questions of private right and punish crimes. But the community of nations has no such agency, and must therefore seek other means of preventing conflicts. But few of the people in a large community know of, or are affected by, the misunderstandings of particular members of it. War, however, affects the whole community of nations. It at once divides the whole world into combatants and non-combatants. Belligerents are recognized as having the right to fight on sea or land and to require neutral nations to keep out of the way of their military and naval operations. They may also interrupt each other's commerce with neutral nations. This often imposes very great hardship on the neutrals. For these reasons, as well as from humane impulses, it is eminently proper that the nations should be allowed and encouraged to exercise their good offices to preserve the peace.

Another expedient offered under Title III of this Convention is an International Commission of Inquiry. This is to be constituted by a special agreement of the parties in cases where the difference between the parties is as to some question of fact, and involves no matter of honor or vital interest.

The functions of the Commission are to make a full investigation and receive the testimony bearing on the controverted facts and to report their findings. They do not make an award as arbitrators do, but merely a statement of the facts as they determine them from the evidence. The parties are free to act on the report as they see fit.² /

In recent years arbitration has grown in favor as a method of settling international controversies, especially between Great Britain and the United States.³ In 1818 there were controversies between the two countries with reference to the fisheries off the coasts of the British possessions in North America, to the boundaries between the British possessions and the United States, and the restoration of slaves taken by the British. A treaty was concluded between them at London on October 20, 1818, which settled the dispute with reference to the fisheries and boundary, and fixed the northern line of the territory of the United States on "a line drawn from the most northwestern point of the Lake of the Woods, along the 49th parallel of north latitude, or, if said point shall not be in the 49th parallel of north latitude, then that a line drawn from the said point due north or south as the case may be, until the said line shall intersect the said parallel of north latitude, and from the point of such intersection due west," to the "Stony Mountains.") It was further agreed that the country claimed by either party west of the Stony Mountains should be free and open for ten years to the vessels, citizens and subjects of both powers. As to the third subject of negotiation the parties were unable to agree. It had been provided in the first article of the Treaty of Ghent, December 24, 1814, which settled the terms of peace after the war of 1812. "All territory, places and possessions whatsoever, taken

² Senate Documents, 2nd Session 61st Congress, 48, p. 2230.

³ The Treaty of October 27, 1795 between Spain and the U. S., provided for the submission of claims of citizens of the U. S. against Spain to a commission of three named by the parties. This commission awarded \$325,440.07½ December 31, 1799, but these claims were relinquished by the treaty of Feb. 22, 1819, and Spanish claims against the United States to the amount of \$5,000,000 were allowed by a Commission appointed by the United States. Senate Documents 48, 1649-1658.

by either party from the other during the war, or which may be taken after the signing of this treaty, excepting only the islands hereinafter mentioned, shall be restored without delay, and without causing any destruction or carrying away any of the artillery or other public property originally captured in the said forts or places, and which shall remain therein upon the exchange of the ratifications of this treaty, or any slaves or other private property."⁴ Claims were made by citizens of the United States for slaves taken by the British, and the parties were unable to agree as to the liability under the terms of the treaty. By the fifth article of the treaty of 1818 it was agreed that this question should be submitted to arbitration and pursuant to this agreement it was submitted to the Emperor of Russia who decided:

"That the United States of America are entitled to a just indemnification, from Great Britain, for all private property carried away by the British forces; and as the question regards slaves more especially, for all such slaves as were carried away by the British forces, from the places and territories of which the restitution was stipulated by the treaty, in quitting the said places and territories:)"

"That the United States are entitled to consider, as having been so carried away, all such slaves as may have been transported from the above-mentioned territories on board of the British vessels within the waters of the said territories, and who, for this reason, have not been restored;

"But that, if there should be any American slaves who were carried away from territories of which the first article of the treaty of Ghent has not stipulated the restitution to the United States, the United States are not to claim any indemnification for the said slaves."⁵

Under the mediation of the Emperor one Commissioner and one Arbitrator were appointed by each of the parties to determine the amount payable under the award pursuant to a further treaty concluded July 12, 1822. The Commission met and agreed on the average value of the slaves, but were unable to do more. The parties then took the matter up again and concluded another treaty on Nov. 13, 1826, by the terms of which Great Britain agreed to pay \$1,204,960. for the slaves.⁶

⁴ Senate Documents, 2nd Session 61st Congress, 47, p. 613.

⁵ Senate Documents, 47-640.

⁶ Senate Documents, 47-634.

It will be observed that the settlement of this controversy in this manner required four different agreements between the parties in interest:—1st. the agreement to submit this particular controversy to arbitration; 2nd, agreement in the choice of an arbitrator; 3rd, the agreement to submit to the Commission the amount to be paid under the ruling of the Emperor; 4th, the final agreement of the parties on this amount. Notwithstanding the incompleteness of the award, and of the report of the Commission, each aided materially in the settlement of the controversy. The award of the Emperor construed the provision of the treaty that gave rise to the controversy, and settled the question of law. The Commission placed an average valuation on the property for which compensation was to be made, leaving the number of slaves to be agreed on or determined otherwise. Between friendly nations, seeking a settlement of their controversy, the arbitration served a useful purpose; between enemies, desiring war, it would have been utterly futile.

The northeastern boundary between the British possessions and the United States as described in the fifth article of the treaty of Ghent being indefinite and uncertain, a treaty was concluded on September 29, 1827, by which it was agreed to submit the matter to arbitration, and the King of the Netherlands was afterwards agreed on as Arbiter. On January 10, 1831, he submitted an award which neither government accepted, and the boundary was finally settled by agreement of the parties by the treaty of August 9, 1842.⁷

THE ALABAMA CLAIMS

The Civil War in the United States from 1861 to 1865 was productive of many complications in the relations of the Union with foreign countries, and especially with Great Britain, whose supply of cotton for its mills had been cut off, as well as its market for its goods in the Confederate States. On the other hand the people of the Union had many causes of complaint of the conduct of the British government as a neutral power, and especially of its allowing privateers to be built,

⁷ Senate Documents, 2d Session 61st Congress, 47-650.

fitted out, armed and supplied from its ports to prey on the commerce of the United States. The Alabama had been especially successful in destroying American shipping, and the United States demanded indemnity for the losses of its citizens. The bitterness of feeling resulting from these occurrences was well calculated to provoke war. Great Britain also preferred claims on behalf of its citizens for losses sustained by them from the acts of citizens of the United States during the war. There were, not only these claims and counter-claims, but questions concerning the fisheries, navigation, canals, and boundaries, which the governments of the two countries were unable to settle by diplomacy. Arbitration of the Alabama claims was suggested to President Lincoln before the termination of the war,⁸ and was discussed by the press in both countries, but the treaty providing for the submission of the various matters in controversy was not signed until May 8, 1871. As this is by far the most notable case of arbitration of which we have any record, the treaty and proceedings under it are worthy of extended mention here. The controversies were between two powerful nations, speaking the same language, and accepting in their jurisprudence the same general principles of unwritten law. Both were vitally interested in finding a peaceful method of adjusting their differences, for each was largely dependent on the other for its welfare and security. The influences urging to an agreement were, therefore, unusually strong. Both Governments appointed very able men as their plenipotentiaries, and the treaty they framed deals with the whole field of controversy in a most thorough and comprehensive manner. With reference to the Alabama claims Article I provides:

"Whereas differences have arisen between the Government of the United States and the Government of her Britannic Majesty, and still exist, growing out of the acts committed by the several vessels which have given rise to the claims generally known as the "Alabama Claims";

"And whereas Her Britannic Majesty has authorized her High Commissioners and Plenipotentiaries to express, in a friendly spirit, the regret felt by Her Majesty's Government for the escape, under whatever circum-

⁸ International Courts of Arbitration, Balch, Introduction.

stances, of the Alabama and other vessels from British ports, and for the depredations committed by those vessels;

"Now, in order to remove and adjust all complaints and claims on the part of the United States, and to provide for the speedy settlement of such claims which are not admitted by Her Britannic Majesty's Government, the high contracting parties agree that all the said claims, growing out of acts committed by the aforesaid vessels, and generally known as the "Alabama Claims" shall be referred to a tribunal of arbitration to be composed of five Arbitrators, to be appointed in the following manner, that is to say: [One shall be named by the President of the United States; one shall be named by Her Britannic Majesty; His Majesty the King of Italy shall be requested to name one; the President of the Swiss Confederation shall be requested to name one; and His Majesty the Emperor of Brazil shall be requested to name one.]"⁹

The article further provides for filling vacancies and failure to appoint, or of the arbitrators to act, so as to insure full membership of the tribunal. The second article provides that the arbitrators shall meet at Geneva and that all questions, including the final award, shall be decided by a majority of all of them. Succeeding articles lay down the procedure and rules governing the submission of evidence and arguments.

The parties were confronted with the lack of certainty in international law as to the measure of duty resting on a neutral power to prevent such occurrences as those complained of by the United States. To obviate this difficulty they agreed on three rules as applicable to the case and incorporated them in Article VI as follows:

"A neutral Government is bound—

"First, to use due diligence to prevent the fitting out, arming or equipping, within its jurisdiction, of any vessel which it has reasonable ground to believe is intended to cruise or to carry on war against a Power with which it is at peace; and also to use like diligence to prevent the departure from its jurisdiction of any vessel intended to cruise or carry on war as above, such vessel having been specially adapted, in whole or in part, within such jurisdiction, to warlike use.

"Secondly, not to permit or suffer either belligerent to make use of its ports or waters as the base of naval operations against the other, or for the purpose of the renewal or augmentation of military supplies or arms, or the recruitment of men.

"Thirdly, to exercise due diligence in its own ports and waters, and, as

⁹ Senate Documents, 2d Session 61st Congress, 47-701.

to all persons within its jurisdiction, to prevent any violation of the foregoing obligations and duties."¹⁰

It is then stated that the British Government does not admit that the foregoing rules state the principles of international law which were in force at the time when the claims arose, but, to strengthen friendly relations, consents that "the Arbitrators should assume that Her Majesty's Government had undertaken to act upon the principles set forth in these rules." Both parties then agree to observe these rules in the future and invite other powers to do so. The next article provides that the tribunal shall determine as to each vessel separately, [whether Great Britain had failed in the performance of its duties, and if it found that it had that it might, if it thought proper, award a sum in gross as damages. If the Arbitrators so found, but failed to award a sum in gross, Article X provided for the appointment of assessors to pass on the separate claims and determine the compensation to be paid on each. No action was necessary under this article, for the Arbitrators made an award in gross. Both parties engaged to consider the decision of the Arbitrators final and to abide by it.

Article XII of the treaty provides for the submission to three Commissioners of all other war claims by citizens of the United States against Great Britain, and by subjects of Great Britain against the United States, one commissioner to be named by each government and the third conjointly, and, if they failed to agree, then the third should be named by the Spanish Minister at Washington. The succeeding articles provide for the procedure before the Commissioners, and that a majority may make an award which both parties agree shall be binding and settle all the controversies over claims arising during the war, whether presented to the Commissioners or not.

By Article XVIII inhabitants of the United States are given the right to take fish on the coast and in the bays and harbours of Quebec, Nova Scotia, New Brunswick, Prince Edward's and Magdalen Islands, with certain shore privileges and subject to exceptions named, and by Article XIX subjects of Great

¹⁰ Senate Documents, 2d Session, 61st Congress, 47, 703.

Britain were given like privileges on the coast of the United States north of the thirty-ninth parallel of north latitude. It is recited in Article XXII that it is claimed that the privileges given to the United States under Article XVIII are more valuable than those received by Great Britain under Articles XIX and XXI, and it is thereupon agreed that a Commission shall be appointed to determine the amount of compensation that ought to be paid by the United States. These Commissioners were to be appointed one each by the two governments and the third by them jointly, and in case they failed to agree then by the representative of the Emperor of Austria at London. The procedure before this Commission is also regulated.

The treaty then provides for the free use of the Great Lakes and the St. Lawrence, Yukon, Porcupine and Stikine rivers by both parties, and for mutual trade and transportation privileges along and near the boundary of the United States and the British Possessions.

By Article XXXIV the controversy as to whether the boundary between the territory of the two countries on the northwest was in the Rosario Straits as claimed by Great Britain, or in the Canal de Haro as claimed by the United States, was submitted to the Emperor of Germany, with power to finally decide the question.

Though the treaty provided for the submission of so many matters to arbitration, it afforded a speedy and satisfactory solution of all matters in dispute. The Emperor of Germany decided in favor of the United States, thereby giving them the disputed islands. This award was made October 21, 1872.

The main controversy concerning the Alabama claims was determined with surprising expedition, and the award was signed at Geneva September 14, 1872, by all the arbitrators except Chief Justice Cockburn, the member appointed by Great Britain. As this award had the effect of a final judgment in a great controversy between two of the most powerful nations on earth and deals with the questions of law and fact in detail, it is of especial interest. After reciting the organization of the tribunal the appearance of the agents of the parties and the submission of the cases, counter cases, documents, evidence,

and arguments, and that the tribunal had arrived at the decision embodied in the award, it proceeds as follows:—

"Whereas, having regard to the VIth and VIIth Articles of the said treaty, the arbitrators are bound under the terms of the VIth article, "in deciding the matters submitted to them, to be governed by the three rules herein specified and by such principles of international law, not inconsistent therewith, as the arbitrators shall determine to have been applicable to the case."

And whereas the "due diligence" referred to in the first and third of said rules ought to be exercised by neutral Governments in exact proportion to the risks to which either of the belligerents may be exposed, from a failure to fulfill the obligations of neutrality on their part;

And whereas the circumstances out of which the facts constituting the subject matter of the present controversy arose were of a nature to call for the exercise on the part of Her Britannic Majesty's Government of all possible solicitude for the observance of the rights and the duties involved in the proclamation of neutrality issued by her Majesty on the 13th day of May, 1861.

And whereas the effects of a violation of neutrality committed by means of the construction, equipment and armament of a vessel are not done away with by any commission which the Government of the belligerent power, benefited by the violation of the neutrality, may afterwards have granted to that vessel; and the ultimate step, by which the offense is completed cannot be admissible as a ground for the absolution of the offender, nor can the consummation of his fraud become the means of establishing his innocence;

And whereas the privilege of extraterritoriality accorded to vessels of war has been admitted into the law of Nations, not as an absolute right, but solely as a proceeding founded on the principle of courtesy and mutual difference between different nations, and therefore can never be appealed to for the protection of acts done in violation of neutrality;

And whereas the absence of a previous notice cannot be regarded as a failure in any consideration required by the law of nations in those cases in which a vessel carries with it its own condemnation;

And whereas in order to impart to any supplies of coal a character inconsistent with the second rule prohibiting the use of neutral ports or waters as a base of naval operations for a belligerent it is necessary that the said supplies should be connected with special circumstances of time, of persons, or of place, which may combine to give them such character;

And whereas with respect to the vessel called the *Alabama*, it clearly results from all the facts relative to the construction of the ship at first designated by the number "290" in the port of Liverpool and its equipments and armament in the vicinity of Terceira through the agency of the vessels called the "*Aggrippina*" and the "*Bahama*," dispatched from

Great Britain to that end, that the British Government failed to use due diligence in the performance of its neutral obligations; and especially that it omitted, notwithstanding the warnings and official representation made by the diplomatic agents of the United States during the construction of the said number "290", to take in due time any effective measures of prevention, and that those orders which it did give at last, for the detention of the vessel, were issued so late that their execution was not practicable;

And whereas after the escape of that vessel, the measures taken for its pursuit and its arrest were so imperfect as to lead to no result, and therefore cannot be considered sufficient to release Great Britain from the responsibility already incurred;

And whereas, in spite of the violations of the neutrality of Great Britain committed by the "290" this same vessel, later known as the Confederate cruiser Alabama, was on several occasions freely admitted into the ports of colonies of Great Britain, instead of being proceeded against as it ought to have been in any and every port within British jurisdiction in which it might have been found;

And whereas the Government of Her Britannic Majesty cannot justify itself for a failure in due diligence on the plea of insufficiency of the legal means of action which it possessed:

Four of the arbitrators for the reasons above assigned and the fifth for the reasons separately signed by him,

Are of opinion—

That Great Britain has in this case failed by omission, to fulfill the duties prescribed in the first and the third of the rules, established by the VIth article of the treaty of Washington.

And whereas, with respect to the vessel called the "Florida" it results from all the facts relative to the construction of the "Oreto" in the port of Liverpool, and to its issue therefrom, which facts failed to induce the authorities in Great Britain to resort to measures adequate to prevent the violation of the neutrality of that nation, notwithstanding the warnings and repeated representations of the agents of the United States, that Her Majesty's Government has failed to use due diligence to fulfill the duties of neutrality;

And whereas it likewise results from all the facts relative to the stay of the "Oreto" at Nassau, to her issue from that port, to her enlistment of men, to her supplies, and to her armament, with the coöperation of the British vessel "Prince Alfred" at Green Cay, that there was negligence on the part of the British colonial authorities:

And whereas, notwithstanding the violation with Great Britain committed by the Oreto, his same vessel later known as the confederate cruiser Florida, was nevertheless on several occasions freely admitted into the ports of British colonies;

And whereas the judicial acquittal of the "Oreto" at Nassau cannot relieve Great Britain from the responsibility incurred by her under the

principles of international law; nor can the fact of the entry of the Florida into the confederate port of Mobile, and of its stay there during four months extinguish the responsibility previous to that time incurred by Great Britain;

For these reasons,

The tribunal by a majority of four voices to one is of opinion—

That Great Britain has in this case failed by omission to fulfill the duties prescribed in the first, in the second, and in the third of the rules established by article VI of the treaty of Washington.

And whereas, with respect to the vessel called the "Shenandoah", it results from all the facts relative to the departure from London of the merchant vessel "The Sea King" and to the transformation of that ship into a confederate cruiser under the name of the Shenandoah near the island of Madeira, that the Government of Her Britannic Majesty is not chargeable with any failure, down to that date, in the use of all diligence to fulfill the duties of neutrality;

But whereas it results from all the facts connected with the stay of the Shenandoah at Melbourne, and especially with the augmentation which the British Government itself admits to have been clandestinely effected of her force, by the enlistment of men within that port, that there was negligence on the part of the authorities of that place:

For these reasons,

The tribunal is unanimously of opinion—

That Great Britain has not failed by any act or omission, "to fulfill any of the duties prescribed by the three rules of article VI in the treaty of Washington or by the principles of law not inconsistent therewith, in respect to the vessel called the Shenandoah, during the period of time anterior to her entry into the port of Melbourne;

And by a majority of three to two voices, the tribunal decides that Great Britain has failed, by omission to perform the duties prescribed by the second and third of rules aforesaid, in the case of this same vessel, from and after her entry into Hobson's Bay, and is therefore responsible for all acts committed by that vessel after her departure from Melbourne on the 18th day of February 1865.

And as far as relates to the vessels called—The Tuscaloosa, (tender to the Alabama), The Clarence, The Tacony and The Archer (tenders to the Florida),

The tribunal is unanimously of the opinion—

That such tenders or auxiliary vessels, being properly regarded as accessories, must necessarily follow the lot of their principals, and be submitted to the same decision which applies to them respectively.

And so far as relates to the vessel called "Retribution,"

The tribunal by a majority of three to two voices is of opinion—

That Great Britain has not failed by any act or omission to fulfill any of the duties prescribed by the three rules of article VI in the treaty of

Washington, or by the principles of international law not inconsistent therewith.

And so far as relates to the vessels called—The Georgia, The Sumter, The Nashville, The Tallahassee, and the Chickamauga, respectively,

The tribunal is unanimously of opinion—

That Great Britain has not failed, by any act or omission to fulfill any of the duties prescribed by the three rules of articles VI in the treaty of Washington or by the principles of international law not inconsistent therewith.

And so far as relates to the vessels called—The Sallie, The Jefferson Davis, The Music, The Boston and the V. H. Joy, respectively,

The tribunal is unanimously of opinion—

That they ought to be excluded from consideration for want of evidence.

And whereas, so far as relates to the particulars of the indemnity claimed by the United States, the cost of pursuit of the confederate cruisers are not, in the judgment of the tribunal, properly distinguishable from the general expenses of the war carried on by the United States.

The tribunal is therefore of opinion, by a majority of three to two voices—

That there is no ground for awarding to the United States any sum by way of indemnity under this head.

And whereas prospective earnings cannot properly be made the subject of compensation, inasmuch as they depend in their nature upon future and uncertain contingencies:

The tribunal is unanimously of opinion—

That there is no good ground for awarding to the United States any sum by way of indemnity under this head.

And whereas in order to arrive at an equitable compensation for the damages which have been sustained, it is necessary to set aside all double claims for the same losses, and all claims for "gross freights" so far as they exceed "net freights";

And whereas it is just and reasonable to allow interest at a reasonable rate;

And whereas, in accordance with the spirit and letter of the treaty of Washington, it is preferable to adopt the form of adjudication of a sum in gross, rather than refer the subject of compensation for a further discussion and deliberation to a board of assessors, as provided by article X. of the said treaty;

The tribunal, making use of the authority conferred upon it by article VII. of the said treaty, by a majority of four voices to one awards to the United States a sum of \$15,500,000 in gold as the indemnity to be paid by Great Britain to the United States, for the satisfaction of all the claims referred to the consideration of the tribunal, conformably to the provisions contained in article VII. of the aforesaid treaty.

And, in accordance with the terms of article XI. of the said treaty, the

tribunal declares that "all the claims referred to in the treaty as submitted to the tribunal are hereby fully, perfectly, and finally settled."

Further it declares, that "each and every one of the said claims, whether the same may or may not have been presented to the notice of, or made, preferred, or laid before the tribunal, shall henceforth be considered and treated as finally settled, barred, and inadmissible."¹¹

This award was signed by Chas. Francis Adams, Frederick Sclopis, Stampfli and Vicomte d'Itajuba. It will be observed that its form complies in all essential particulars with the forms commonly used in the judgments and decrees of the courts of Great Britain and the United States, and disposes of all the questions in detail, except that it does not apportion the sum allowed the private claimants, but leaves its distribution to the government of the United States.

The commission provided for in articles XII to XVII, to which was submitted the other claims growing out of the war, held its final meeting on September 25, 1873, and awarded to Great Britain \$1,929,819 in gold, and disallowed all claims of citizens of the United States against Great Britain.¹² The commission provided for in articles XXII to XXV met at Halifax, Nova Scotia, June 15, 1877, and on November 23, 1877, awarded to Great Britain \$5,500,000 in gold for the difference in value of the fishing privileges granted by the treaty.¹³

Only the year before that in which this treaty, which so happily settled this long list of controversies between the two great English speaking nations, Great Britain, pursuant to the Protocol of the treaty of Paris of 1856 hereinbefore mentioned, appealed to both France and Prussia to arbitrate their differences. Napoleon III was then on the throne of France. He took offence at the choice of a Hohenzollern to the throne of Spain and was not satisfied with the mere non-acceptance of the throne, but insisted on guarantees from Prussia that such a dynastic combination should not be made in the future.¹⁴ Prussia refused and the war so disastrous to France followed.

¹¹ Senate Documents, 2d Session, 61 Congress, 47-718.

¹² Senate Documents, 2d Session, 61 Congress, 47-705.

¹³ Senate Documents, 2d Session, 61 Congress, 47-709.

¹⁴ Halleck's Int. Law 1. 500.

✓ { Good offices, meditation or arbitration could not serve the purposes of imperial ambition. }

THE FUR SEAL FISHERIES

The fur-seal fisheries in Behring's Sea gave rise to various questions between Great Britain and the United States, which the governments were unable to settle by diplomacy. The seals resorted to the islands to breed, but went far out on the sea where they were taken by fishermen. The United States claimed the right to regulate the taking and prevent the destruction of them. This claim was denied by Great Britain. A treaty was concluded February 29, 1892, submitting the questions on which the governments differed to seven arbitrators, two each to be appointed by the respective governments, one by the President of France, one by the King of Italy, and the other by the King of Sweden and Norway. The sixth article of the treaty states five points to be decided by the arbitrators:—

"1. What exclusive jurisdiction in the sea now known as Behring's Sea, and what exclusive rights in the seal fisheries therein, did Russia assert and exercise prior and up to the time of the cession of Alaska to the United States?

2. How far were those claims of jurisdiction as to the seal fisheries recognized and conceded by Great Britain?

3. Was the body of water now known as Behring's Sea included in the phrase "Pacific Ocean" as used in the treaty of 1825 between Great Britain and Russia; and what rights, if any, in the Behring Sea were held and exclusively exercised by Russia after said treaty?

4. Did not all the rights of Russia as to jurisdiction, and as to the seal fisheries in Behring's Sea east of the water boundary, in the treaty between the United States and Russia on the 30th of March, 1867, pass unimpaired to the United States under that Treaty?

5. Has the United States any right, and if so, what right of protection or property in the fur-seals frequenting the islands of the United States in Behring Sea when such seals are found outside the ordinary three-mile limit?"¹⁵

The arbitrators decided "that the United States has not any right of protection or property in the fur-seals frequenting the islands of the United States in Behring Sea, when such seals are found outside the ordinary three-mile limit." Pursuant to

¹⁵ Senate Documents, 2d Session, 61st Congress, 47-748.

other provisions of the treaty the arbitrators decided that concurrent regulations outside the jurisdiction limits of the respective governments were necessary and included in their award nine articles providing among other things that both governments should forbid their citizens and subjects to kill, capture or pursue at any time seals within sixty geographical miles of the Pribilof Islands; or to kill, capture or pursue them during the season from May 1 to July 31 on the high sea in the part of the Pacific Ocean, inclusive of Behring Sea, which is situated to the North of the 35th degree of north latitude and eastward of the 180th degree of longitude from Greenwich till it strikes the water boundary described in Article I of the treaty of 1867 between the United States and Russia: that only sailing vessels should be permitted to take seals, and that each such vessel should procure a license from its government; that the use of nets, fire arms and explosives should be forbidden, except that shot guns might be used outside of Behring's sea.¹⁶

The award did not fully dispose of all matters of disagreement on the subject of the seal fisheries, but enabled them to agree on temporary regulations for the prevention of the extermination of the seals. It decided adversely to the United States all claims of exclusive jurisdiction over the high seas. Nor does it recognize any right in both governments acting in concert to make rules governing persons other than their own citizens and subjects. The high seas being the common property of all nations, the regulation of their use requires the joint action of all of them. The award did not dispose of the claims made against the United States for seizures and interference with the operations of British subjects. These claims were subsequently referred to a commission which on December 17, 1897, awarded the claimants \$473,151.26 against the United States.¹⁷

The two governments being unable to agree on the boundary line between Alaska and the British Dominions appointed a tribunal of six jurists, three of them named by each govern-

¹⁶ Senate Documents, 2d Session, 61 Congress, 47-751.

¹⁷ Senate Documents, 2d Session, 61 Congress, 47-770.

ment, to determine the line. This tribunal, although composed entirely of nationals of the two parties, made an award which settled the controversy.

The success of these arbitrations and of those determining matters in difference between Great Britain and Venezuela, treaty of 1897, between the Argentine Republic and Chile, treaty of 1902, led to a feeling among diplomats of great confidence in the efficacy of arbitration as a means for the settlement of international disputes. The tripartite arbitration of the Samoan claims which, pursuant to the treaty concluded November 7, 1899, between the United States, Germany, and Great Britain, was submitted to the King of Sweden and Norway as sole arbitrator, resulted in a decision in favor of Germany on October 14, 1902. King Oscar held that the military operations of Great Britain and the United States between 1 January and 13 May, 1899, were unwarranted under the treaty between the three powers concluded at Berlin June 14, 1889, and the principles of international law. This arbitration was notable because it submitted to a single arbitrator a question as to the rightfulness or wrongfulness of the military operations of two of the greatest nations in the world as affecting the subjects of a third great nation. There was plausible ground for making the claim that this was not a justiciable matter because it involved the honor of Great Britain and the United States, but no such claim was made and the controversy was settled by this award.¹⁸

(The marked success of arbitration in bringing about speedy and complete settlement of so many controversies which might have been treated as grounds for war, induced the second Hague Conference to devote great care and attention to arbitration as a means to be resorted to by all nations for determining those questions that they were unable to settle by diplomacy.) But the convention finally agreed on does not bind the nations to submit any class of disputes to arbitration. It merely approves and recommends it, provides a tribunal which may be resorted to if the parties so agree, and furnishes rules of pro-

¹⁸ Senate Documents, 2d Session 61st Congress, 48-1591.

cedure to be followed where the parties do not make different provisions.

Recent history illustrates with equal force the need of other more drastic and efficient measures for the prevention of war than the facilities for arbitration afforded by the Hague tribunal. Only a short time before the meeting of the first Hague Conference there was war between China and Japan, 1894-1895. This was between Asiatic powers, who were not presumed by western nations to be familiar with this method of settling differences. But in 1898 there was war between the United States, which had been a party to so many arbitrations and was so thoroughly familiar with their uses and advantages, and Spain, the country with which it had made an arbitration agreement as early as 1795.

In October of the year of the first Hague Conference, 1899, Great Britain, the other party to these most notable arbitrations, had the Boer war in South Africa, which was not finally settled until 1902. Then followed the war between Russia and Japan and the fighting in the Balkans.

CHAPTER VII

THE HAGUE CONFERENCES

International coöperation seemed to be advancing by great strides during the last half of the nineteenth century. Conferences of diplomatic representatives of large numbers of the leading nations were held with great frequency for the purpose of making needed provisions in the interest of all. As results of these conferences governmental agencies acting in behalf of many and even of all the nations of the earth were established with various functions. The International Bureau of Weights and Measures at Paris gave exactness to the standard on which the metric system was founded and provided for prototypes by which the measures in use in the various countries could be tested. Though the use of this system was not universal it was most nearly so of any, and it was the most complete and scientific system ever adopted anywhere. The advantages of the convention are open to every nation not a party to it on the same terms as the signatory powers. The plan of formulating conventions applicable alike to the needs of all countries by the representatives of a considerable number of states and inviting the adhesion of those not represented at the conference appears to be a very modern and very excellent method of bringing about general agreements, and has come into quite general use. The Bureau is designed to be a permanent institution, available to all the nations. This was followed by the convention for the protection of submarine cables which dealt with the common property of all the nations, but did not establish any common governmental agency. The general act for the repression of the African slave trade dealt with a subject very different from either of the others just named, covering a very wide field of great importance. It established an international office at Zanzibar, and made a branch of the foreign office at Brussels an agency for the col-

lection of expenses and the exchange of documents and information connected with the operations provided for in the convention. It invited the adherence of the powers which were not parties to it. As the result of it the slave trade is substantially at an end. The convention providing for the publication of customs tariffs established an International Bureau at Brussels to translate and publish the customs tariffs of the various states of the globe and furnish them to the nations joining in the convention. Other powers are invited to accede to the convention and provision is made for a division of the expenses connected with the work of the bureau among all the powers taking advantage of the facilities it affords. The Union is to continue for seven years and if not denounced for succeeding periods of seven years.

The International Postal Union with its permanent Bureau at Berne had become world-wide in its operations and a most gratifying success in every way. Through it all the nations coöperated in facilitating commercial and social correspondence between their people. The conventions for the safety of life at sea resulted in great reduction of the perils of navigation and tended to close and intimate union of effort by the governments to formulate and enforce rules of common safety. No similar combinations for the general welfare of all had ever before been effected. Judged by the success of these international measures the task of uniting all the nations to promote their common interests appeared entirely practicable.

But the primal purpose of government, protection from hostile aggression and preservation of peace, had not been provided for by any general international agreement. The very gratifying success achieved through resort to arbitration induced the belief by many earnest seekers of an alternative for war that arbitration could be made to furnish the needed relief. Though the world had advanced very rapidly in population and in the development of industries, though the discoveries of rich mines of gold in Alaska, South Africa and elsewhere, and the vast productions of silver throughout the world had greatly increased the volume of metallic money in use, though the sentiment of mankind had become more and more opposed

to war as a means of determining any question, militarism in Europe continued to increase and the resources of the nations were wasted in ceaseless preparation for war. Germany led in preparation for war on land. Its whole male population was subjected to thorough military discipline, and all its industries and means of communication were adjusted to the requirements of military operations. By far the greater part of all the public revenues were expended on the military and naval establishments. Neighboring nations made corresponding efforts to be prepared for the emergency of war. Great Britain expended vast sums to maintain its dominion of the seas, with but little attention to land forces. Russia with by far the greatest area of contiguous territory and the largest home population needed all its revenues and the energies of all its leaders for internal development, the promotion of new industries, the education of its vast multitudes of illiterate people, and the reformation of its governmental system. Though it had more men for its armies than any other European nation, it was not nearly so well equipped for the production of munitions as its German neighbors. Feeling the need of all its means for better uses than war the Czar and his advisers proposed an international conference to bring about concerted action of all the powers for the maintenance of peace between nations, the reduction of armaments and the amelioration of the hardships of war. This proposal was responded to by Germany, Austria-Hungary, Belgium, Denmark, Spain, Portugal, Roumania, Servia, France, Great Britain, Greece, Italy, Luxemburg, Montenegro, the Netherlands, Sweden and Norway, Switzerland, Turkey, and Bulgaria, of the European nations, by China, Japan, Persia and Siam of the Asiatic nations, and by the United States and Mexico, of America. Central and South America were not represented. The conference assembled at The Hague on May 18, 1899; it was presided over by Baron de Staal of Russia and its sessions continued until July 29th, with one hundred delegates in attendance. No such gathering of diplomats had ever before been assembled, and great hopes were entertained of its ability to accomplish in the field of international pacification results similar to those already

achieved in the lines above mentioned. The work of the conference resulted in the signing by all the nations represented of a general act consisting of three conventions, three declarations and six resolutions. The first of the conventions was for the pacific settlement of international disputes,¹ the second, for the adaptation to maritime warfare of the principles of the Geneva convention,² and the third with respect to the laws and customs of war on land.³ The first and most important of these provided for the establishment of a Permanent Court of Arbitration at the Hague, with a Permanent Administrative Council, composed of the diplomatic representatives of the signatory powers accredited to the Hague and an International Bureau under its direction. The three declarations prohibit the use of projectiles or explosives from balloons for a period of five years; the employment of projectiles which diffuse asphyxiating or other deleterious gases; and the use of bullets which expand or flatten easily in the human body. The six resolutions express the opinion that the military burdens which now weigh so heavily on the world may be lightened, in the interest of the moral and material well-being of humanity; that the duties of neutrals, the inviolability of private property in maritime warfare, and the question of the bombardment of towns should be referred to a future conference,⁴ and that the questions of the types and calibres of maritime artillery and small arms and the size of naval and military budgets should be studied with a view to establishing uniformity in the former and a reduction of the latter.

The Permanent Court of Arbitration was duly organized and the United States and Mexico were the first powers to resort to it for the settlement of a matter of difference between them in the summer of 1902. (1) It has since been resorted to by other nations on various occasions.

All these conventions were superseded by others on the same subjects adopted at the second Hague conference. On October

¹ Senate Documents, 2d Session, 61st Congress, 48, 2016.

² Id. 48, 2035.

³ Id. 48, 2042.

⁴ Messages and Papers of the Presidents, XI, 371.

21, 1904, the United States proposed to the other powers a second peace conference. This conference met at The Hague on June 15, 1907, on the invitation of the Czar of Russia and the Queen of the Netherlands, extended pursuant to the proposal of the President of the United States. It was presided over by the Russian ambassador at Paris, M. Nelidoff and continued its sessions till October 18, 1907.

At this Conference the following Powers were represented and took part: Germany, United States, Argentine Republic, Austria-Hungary, Belgium, Bolivia, Brazil, Bulgaria, Chile, China, Colombia, Cuba, Denmark, The Dominican Republic, Ecuador, Spain, France, Great Britain, Greece, Guatemala, Hayti, Italy, Japan, Luxemburg, Mexico, Montenegro, Nicaragua, Norway, Panama, Paraguay, The Netherlands, Peru, Persia, Portugal, Roumania, Russia, Salvador, Servia, Siam, Sweden, Switzerland, Turkey, Uruguay and Venezuela, numbering forty-four in all.

At a series of meetings held from June 15 to October 18, fourteen conventions were drawn up and submitted for signature by the Plenipotentiaries as follows:

1. Convention for the Pacific Settlement of International Disputes.
2. Convention respecting the Limitation of the Employment of Force for the Recovery of Contract Debts.
3. Convention relative to the Opening of Hostilities.
4. Convention respecting the Laws and Customs of War on Land.
5. Convention respecting the Rights and Duties of Neutral Powers and Persons in case of War on Land.
6. Convention relating to the Status of Enemy Merchant Ships at the outbreak of Hostilities.
7. Convention relative to the Conversion of Merchant-Ships into War-Ships.
8. Convention relative to the Laying of Automatic Submarine Contact Mines.
9. Convention respecting Bombardment by Naval Forces in Time of War.

10. Convention for the adaptation to Naval War of the Principles of the Geneva Convention.

11. Convention relative to Certain Restrictions with regard to the Exercise of the Right of Capture in Naval War.

12. Convention relative to the creation of an International Prize Court.

13. Convention concerning the Rights and Duties of Neutral Powers in Naval War.

14. Declaration prohibiting the discharge of Projectiles and Explosives from Balloons.

Full copies of these convention are given below and they will be considered in their order. The first continued the Permanent Court of Arbitration which is still maintained.

CONVENTION FOR THE PACIFIC SETTLEMENT OF INTERNATIONAL DISPUTES

Article 1. With a view to obviating as far as possible, recourse to force in the relations between States, the Contracting Powers agree to use their best efforts to ensure the pacific settlement of international differences.

Art. 2. In case of serious disagreement or dispute, before an appeal to arms, the Contracting Powers agree to have recourse, as far as circumstances allow, to the good offices or mediation of one or more friendly Powers.

Art. 3. Independently of this recourse, the Contracting Powers deem it expedient and desirable that one or more Powers, strangers to the dispute, should, on their own initiative and as far as circumstances may allow, offer their good offices or mediation to the States at variance.

Powers strangers to the dispute have the right to offer good offices or mediation even during the course of hostilities.

The exercise of this right can never be regarded by either of the parties in the dispute as an unfriendly act.

Art. 4. The part of the mediator consists in reconciling the opposing claims and appeasing the feelings of resentment which may have arisen between the States at variance.

Art. 5. The functions of the mediator are at an end when once it is declared, either by one of the parties to the dispute or by the mediator himself, that the means of reconciliation proposed by him are not accepted.

Art. 6. Good offices and mediation undertaken, either at the request of the parties in dispute or on the initiative of Powers strangers to the dispute have exclusively the character of advice, and never have binding force.

Art. 7. The acceptance of mediation cannot, unless there be an agreement to the contrary, have the effect of interrupting, or hindering mobilization or other measures of preparation for war.

If it takes place after the commencement of hostilities, the military operations in progress are not interrupted in the absence of any agreement to the contrary.

Art. 8. The Contracting Powers are agreed in recommending the application, when circumstances allow, of special mediation in the following form:—

In case of a serious difference endangering peace, the States at variance choose a Power, to which they entrust the mission of entering into direct communication with the Power chosen on the other side, with the object of preventing the rupture of pacific relations.

For the period of this mandate, the term of which, unless otherwise stipulated, cannot exceed thirty days, the States in dispute cease from all direct communication on the subject of the dispute, which is regarded as referred exclusively to the mediating Powers, which must use their best efforts to settle it.

In case of a definite rupture of pacific relations, these Powers are charged with the joint task of taking advantage of any opportunity to restore peace.

Part III. International Commission of Inquiry

Art. 9. In disputes of an international nature involving neither honor nor vital interests, and arising from a difference of opinion on points of fact, the Contracting Powers deem it expedient and desirable that the parties who have not been able to come to an agreement by means of diplomacy, should, as far as circumstances allow, institute an International Commission of Inquiry, to facilitate a solution of these disputes by elucidating the facts by means of an impartial and conscientious investigation.

Art. 10. International Commissions of Inquiry are constituted by special agreement between the parties in dispute.

The Inquiry Convention defines the facts to be examined; it determines the mode and time in which the Commission is to be formed and the extent of the powers of the Commissioners.

It also determines, if there is need, where the Commission is to sit, and whether it may remove to another place, the language the Commission shall use and the languages the use of which shall be authorized before it, as well as the date on which each party must deposit its statement of facts, and, generally speaking, all the conditions upon which the parties have agreed.

If the parties consider it necessary to appoint Assessors, the Convention of Inquiry shall determine the mode of their selection and the extent of their powers.

Art. 11. If the Inquiry Convention has not determined where the Commission is to sit, it will sit at The Hague.

The place of meeting, once fixed, cannot be altered by the Commission except with the assent of the parties.

If the Inquiry Convention has not determined what languages are to be employed, the question shall be decided by the Commission.

Art. 12. Unless an undertaking is made to the contrary, Commissioners of Inquiry shall be formed in the manner determined by articles 45 and 57 of the present Convention.

Art. 13. Should one of the Commissioners or one of the Assessors, should there be any, either die, or resign, or be unable for any reason to discharge his functions, the same procedure is followed for filling the vacancy as was followed for appointing him.

Art. 14. The parties are entitled to appoint special agents to attend the Commission of Inquiry, whose duty it is to represent them and to act as intermediaries between them and the Commission.

They are further authorized to engage counsel or advocates, appointed by themselves, to state their case and uphold their interests before the Commission.

Art. 15. The International Bureau of the Permanent Court of Arbitration acts as registry for the Commissions which sit at The Hague, and shall place its offices and staff at the disposal of the Contracting Powers for the use of the Commission of Inquiry.

Art. 16. If the Commission meets elsewhere than at The Hague, it appoints a Secretary-General, whose office serves as registry.

It is the function of the registry, under the control of the President, to make the necessary arrangements for the sittings of the Commission, the preparation of the Minutes, and, while the inquiry lasts, for the charge of the archives, which shall subsequently be transferred to the International Bureau at The Hague.

Art. 17. In order to facilitate the constitution and working of Commissions of Inquiry, the Contracting Powers recommend the following rules, which shall be applicable to the inquiry procedure in so far as the parties do not adopt other rules.

Art. 18. The Commission shall settle the details of the procedure not covered by the special Inquiry Convention or the present Convention, and shall arrange all the formalities required for dealing with the evidence.

Art. 19. On the inquiry both sides must be heard.

At the dates fixed, either party communicates to the Commission and to the other party the statements of fact, if any, and, in all cases, the instruments, papers, and documents which it considers useful for ascertaining the truth, as well as a list of witnesses and experts whose evidence it wishes to be heard.

Art. 20. The Commission is entitled, with the assent of the Powers, to move temporarily to any place where it considers it may be useful to

have recourse to this means of inquiry or to send one or more of its members. Permission must be obtained from the State on whose territory it is proposed to hold the inquiry.

Art. 21. Every investigation, and every examination of a locality, must be in the presence of the agents and counsel of the parties or after they have been duly summoned.

Art. 22. The Commission is entitled to ask from either party for such explanations and information as it considers necessary.

Art. 23. The parties undertake to supply the Commission of Inquiry, as fully as they may think possible, with all means and facilities necessary to enable it to become completely acquainted with, and to accurately understand, the facts in question.

They undertake to make use of the means at their disposal, under their municipal law, to insure the appearance of the witnesses or experts who are in their territory and have been summoned before the Commission.

If the witnesses or experts are unable to appear before the Commission, the parties will arrange for their evidence to be taken before the qualified officials of their own country.

Art. 24. For all notices to be served by the Commission in the territory of a third Contracting Power, the Commission shall apply direct to the Government of the said Power. The same rule applies in the case of steps being taken on the spot to procure evidence.

The requests for this purpose are to be executed so far as the means at the disposal of the Power applied to under its municipal law allow. They cannot be rejected unless the Power in question considers they are calculated to impair its sovereign rights or its safety.

The Commission will equally be always entitled to act through the Power on whose territory it sits.

Art. 25. The witnesses and experts are summoned on the request of the parties or by the Commission of its own motion, and, in every case, through the Government of the State in whose territory they are.

The witnesses are heard in succession and separately, in the presence of the agents and counsel, and in the order fixed by the Commission.

Art. 26. The examination of witnesses is conducted by the President.

The members of the Commission may however put to each witness questions which they consider likely to throw light on and complete his evidence, or get information on any point concerning the witness within the limits of what is necessary in order to get at the truth.

The agents and counsel of the parties may not interrupt the witness when he is making his statement, nor put any direct question to him, but they may ask the President to put such additional questions to the witness as they think expedient.

Art. 27. The witness must give his evidence without being allowed to read any written draft. He may, however, be permitted by the President to consult notes or documents if the nature of the facts referred to necessitates their employment.

Art. 28. A Minute of the evidence of the witness is drawn up forthwith and read to the witness. The latter may make such alterations and additions as he thinks necessary, which will be recorded at the end of his statement.

When the whole of his statement has been read to the witness, he is asked to sign it.

Art. 29. The agents are authorized, in the course of or at the close of the inquiry, to present in writing to the Commission and to the other party such statements, requisitions, or summaries of the facts as they consider useful for ascertaining the truth.

Art. 30. The Commission considers its decisions in private and the proceedings are secret.

All questions are decided by a majority of the members of the Commission.

If a member declines to vote, the fact must be recorded in the Minutes.

Art. 31. The sittings of the Commission are not public, nor the Minutes and documents connected with the inquiry published except in virtue of a decision of the Commission taken with the consent of the parties.

Art. 32. After the parties have presented all the explanations and evidence, and the witnesses have all been heard, the President declares the inquiry terminated, and the Commission adjourns to deliberate and to draw up its Report.

Art. 33. The Report is signed by all the members of the Commission. If one of the members refuses to sign, the fact is mentioned; but the validity of the Report is not affected.

Art. 34. The Report of the Commission is read at a public sitting, the agents and counsel of the parties being present or duly summoned.

A copy of the Report is given to each party.

Art. 35. The report of the Commission is limited to a statement of facts, and has in no way the character of an Award. It leaves the parties entire freedom as to the effect to be given to the statement.

Art. 36. Each party pays its own expenses and an equal share of the expenses incurred by the Commission.

Part IV. International Arbitration

Chapter I.—The System of Arbitration

Art. 37. International arbitration has for its object the settlement of disputes between States by Judges of their own choice and on the basis of respect for law.

Recourse to arbitration implies an engagement to submit in good faith to the Award.

Art. 38. In questions of a legal nature, and especially in the interpretation or application of International Conventions, arbitration is recognized by the Contracting Powers as the most effective, and, at the same

time, the most equitable means of settling disputes which diplomacy has failed to settle.

Consequently, it would be desirable that, in disputes about the above mentioned questions, the Contracting Powers should, if the case arose, have recourse to arbitration, in so far as circumstances permit.

Art. 39. The Arbitration Convention is concluded for questions already existing or for questions which may arise eventually.

It may embrace any dispute or only disputes of a certain category.

Art. 40. Independently of general or private Treaties expressly stipulating recourse to arbitration as obligatory on the Contracting Powers, the said Powers reserve to themselves the right of concluding new Agreements, general or particular, with a view to extending compulsory arbitration to all cases which they may consider it possible to submit to it.

Chapter II—The Permanent Court of Arbitration

Art. 41. With the object of facilitating an immediate recourse to arbitration for international differences, which it has not been possible to settle by diplomacy, the Contracting Powers undertake to maintain the Permanent Court of Arbitration, as established by the First Peace Conference, accessible at all times, and operating, unless otherwise stipulated by the parties, in accordance with the rules of procedure inserted in the present Convention.

Art. 41. The Permanent Court is composed for all arbitration cases, unless the parties agree to institute a special Tribunal.

Art. 42. The Permanent Court sits at The Hague.

An International Bureau serves as registry for the Court. It is the channel for communications relative to the meetings of the Court; it has charge of the archives and conducts all the administrative business.

The Contracting Powers undertake to communicate to the Bureau, as soon as possible, a certified copy of any conditions of arbitration arrived at between them and of any Award concerning them delivered by a special Tribunal.

They likewise undertake to communicate to the Bureau the laws, regulations, and documents eventually showing the execution of the Awards given by the Court.

Art. 43. Each Contracting Power selects four persons at the most, of known competency in questions of international law, of the highest moral reputation, and disposed to accept the duties of Arbitrator.

The persons thus selected are inscribed, as members of the Court, in a list which shall be notified to all the Contracting Powers by the Bureau.

Any alteration in the list of Arbitrators is brought by the Bureau to the knowledge of the Contracting Powers. Two or more Powers may agree on the selection in common of one or more members.

The same person can be selected by different Powers. The members

of the Court are appointed for a term of six years. These appointments are renewable.

Should a member of the Court die or resign, the same procedure is followed for filling the vacancy as was followed for appointing him. In this case the appointment is made for a fresh period of six years.

Art. 45. When the Contracting Powers wish to have recourse to the Permanent Court for the settlement of a difference which has arisen between them, the Arbitrators called upon to form the Tribunal with jurisdiction to decide this difference must be chosen from the general list of members of the Court.

Failing the direct agreement of the parties on the composition of the Arbitration Tribunal, the following course shall be pursued:—

Each party appoints two Arbitrators, of whom one only can be its national, or chosen from among the persons selected by it as members of the Permanent Court. These Arbitrators together choose an Umpire.

If the votes are equally divided, the choice of the Umpire is intrusted to a third Power, selected by the parties by common accord.

If an agreement is not arrived at on this subject each party selects a different Power, and the choice of the Umpire is made in concert by the Powers thus selected.

If, within two months' time, these two Powers cannot come to an agreement, each of them presents two candidates taken from the list of members of the Permanent Court, exclusive of the members selected by the parties and not being nationals of either of them. Drawing lots determines which of the candidates thus presented shall be Umpire.

Art. 46. The Tribunal being thus composed, the parties notify to the Bureau their determination to have recourse to the Court, the text of their "Compromis," and the names of the Arbitrators.

The Bureau communicates without delay to each Arbitrator the "Compromis," and the names of the other members of the Tribunal.

The Tribunal assembles at the date fixed by the parties. The Bureau makes the necessary arrangements for the meeting.

The members of the Tribunal, in the exercise of their duties and out of their own country, enjoy diplomatic privileges and immunities.

Art. 47. The Bureau is authorized to place its offices and staff at the disposal of the Contracting Powers for the use of any special Board of Arbitration.

The jurisdiction of the Permanent Court may, within the conditions laid down in the regulations, be extended to disputes between non-Contracting Powers or between Contracting Powers and non-Contracting Powers, if the parties are agreed on recourse to this Tribunal.

Art. 48. The Contracting Powers consider it their duty, if a serious dispute threatens to break out between two or more of them, to remind these latter that the Permanent Court is open to them.

Consequently they declare that the fact of reminding the parties at

variance of the provisions of the present Convention, and the advice given to them, in the highest interest of peace, to have recourse to the Permanent Court, can only be regarded as friendly actions.

In case of dispute between two Powers, one of them can always address to the International Bureau a note containing a declaration that it would be ready to submit the dispute to arbitration.

The Bureau must at once inform the other Power of the declaration.

Art. 49. The Permanent Administrative Council, composed of the Diplomatic Representatives of the Contracting Powers accredited to The Hague and the Netherlands Minister for Foreign Affairs, who will act as President, is charged with the direction and control of the International Bureau.

The Council settles its rules of procedure and all other necessary regulations.

It decides all questions of administration which may arise with reference to the operations of the Court.

It has entire control over the appointment, suspension, or dismissal of the officials and employes of the Bureau.

It fixes the payments and salaries, and controls the general expenditure.

At meetings duly summoned the presence of nine members is sufficient to render valid the discussions of the Council. The decisions are taken by a majority of votes.

The Council communicates to the Contracting Powers without delay the regulations adopted by it, it furnishes them with an annual report on the labours of the Court, the working of the administration, and the expenditure. The Report likewise contains a résumé of what is important in the documents communicated to the Bureau by the Powers in virtue of Article 43, paragraphs 3 and 4.

Art. 50. The expenses of the Bureau shall be borne by the Contracting Powers in the proportion fixed for the International Bureau of the International Postal Union.

The expenses to be charged to the adhering Powers shall be reckoned from the date on which their adhesion comes in force.

Art. 51. With a view to encouraging the development of arbitration, the Contracting Powers have agreed on the following rules, which are applicable to arbitration procedure, unless other rules have been agreed on by the parties.

Art. 52. The Powers which have recourse to arbitration sign a "Compromis" in which the subject of the dispute is clearly defined, the time allowed for appointing Arbitrators, the form, order, and time which the communication referred to in Article 63 must be made, and the amount of the sum which each party must deposit in advance to defray the expenses.

The "Compromis" likewise defines, if there is occasion, the manner of appointing Arbitrators, any special powers which may eventually belong

to the Tribunal, where it shall meet, the language it shall use, and the languages the employment of which shall be authorized before it, and, generally speaking, all the conditions on which the parties are agreed.

Art. 53. The Permanent Court is Competent to settle the "Compromis," if the parties are agreed to have recourse to it for the purpose.

It is similarly competent, even if the request is only made by one of the parties, when all attempts to reach an understanding through the diplomatic channel have failed, in the case of:—

1. A dispute covered by a general Treaty of Arbitration concluded or renewed after the present Convention has come in force, and providing for a "Compromis" in all disputes and not either explicitly or implicitly excluding the settlement of the "Compromis" from the competence of the Court. Recourse cannot, however, be had to the Court if the other party declares that in its opinion the dispute does not belong to the category of disputes which can be submitted to compulsory arbitration, unless the Treaty of Arbitration confers upon the Arbitral Tribunal the power of deciding this preliminary question.

2. A dispute arising from contract debts claimed from one Power by another Power as due to its nationals, and for the settlement of which the offer of Arbitration has been accepted. This arrangement is not applicable if acceptance is subject to the condition that the "Compromis" should be settled in some other way.

Art. 54. In the cases contemplated in the preceding Article, the "Compromis" shall be settled by a Commission consisting of five members selected in the manner arranged for in Article 45, paragraphs 3 to 6.

The fifth member is President of the Commission *ex officio*.

Art. 55. The duties of Arbitrator may be conferred on one Arbitrator alone or on several Arbitrators selected by the parties as they please, or chosen by them from the members of the Permanent Court of Arbitration established by the present Convention.

Failing the constitution of the Tribunal by direct agreement between the parties, the course referred to in Article 45, paragraphs 3 to 6, is followed.

Art. 56. When a Sovereign or the Chief of a State is chosen as Arbitrator, the Arbitration procedure is settled by him.

Art. 57. The Umpire is President of the Tribunal *ex officio*.

When the Tribunal does not include an Umpire, it appoints its own President.

Art. 58. When the "Compromis" is settled by a Commission, as contemplated in Article 54, and in the absence of an agreement to the contrary, the Commission itself shall form the Arbitral Tribunal.

Art. 59. Should one of the Arbitrators either die, retire, or be unable for any reason whatever to discharge his functions, the same procedure is followed for filling the vacancy as was followed for appointing him.

Art. 60. The Tribunal sits at the Hague, unless some other place is selected by the parties.

The Tribunal can only sit in the territory of a third Power with the latter's consent.

The place of meeting once fixed cannot be altered by the Tribunal, except with the consent of the parties.

Art. 61. If the question as to what languages are to be used has not been settled by the "Compromis," it shall be decided by the Tribunal.

Art. 62. The parties are entitled to appoint special agents to attend the Tribunal to act as intermediaries between themselves and the Tribunal.

They are further authorized to retain for the defence of their rights and interests before the Tribunal counsel or advocates appointed by themselves for this purpose.

The members of the Permanent Court may not act as agents, counsel, or advocates except on behalf of the Power which appointed them members of the Court.

Art. 63. As a general rule, arbitration procedure comprises two distinct phases: pleadings and oral discussions.

The pleadings consist in the communication by the respective agents to the members of the Tribunal and the opposite party of the cases, counter-cases, and, if necessary, of replies; the parties annex thereto all papers and documents called for in the case. This communication shall be made either directly or through the intermediary of the International Bureau, in the order and within the time fixed for the "Compromis."

The time fixed by the "Compromis" may be extended by mutual agreement by the parties, or by the Tribunal when the latter considers it necessary for the purpose of reaching a just decision.

The discussions consist in oral development before the Tribunal of the arguments of the parties.

Art. 64. A certified copy of every document produced by one party must be communicated to the other party.

Art. 65. Unless special circumstances arise, the Tribunal does not meet until the pleadings are closed.

Art. 66. The discussions are under the control of the President.

They are only public if it be so decided by the Tribunal, with the assent of the parties.

They are recorded in minutes drawn up by the Secretaries appointed by the President. These minutes are signed by the President and by one of the Secretaries and alone have an authentic character.

Art. 67. After the close of the pleadings, the Tribunal is entitled to refuse discussion of all new papers or documents which one of the parties may wish to submit to it without the consent of the other party.

Art. 68. The Tribunal is free to take into consideration new papers or documents to which its attention may be drawn by the agents or counsel of the parties.

In this case, the Tribunal has the right to require the production of these papers or documents, but is obliged to make them known to the opposite party.

Art. 69. The Tribunal can, besides, require from the agents of the parties the production of all papers, and can demand all necessary explanations. In case of refusal the Tribunal takes note of it.

Art. 70. The agents and the counsel of the parties are authorized to present orally to the Tribunal all the arguments they may consider expedient in defense of their case.

Art. 71. They are entitled to raise objections and points. The decisions of the Tribunal on these points are final and cannot form the subject of any subsequent discussion.

Art. 72. The members of the Tribunal are entitled to put questions to the agents and counsel of the parties, and to ask them for explanations on doubtful points.

Neither the questions put, nor the remarks made by the members of the Tribunal in the course of the discussions, can be regarded as an expression of opinion by the Tribunal in general or by its members in particular.

Art. 73. The Tribunal is authorized to declare its competence in interpreting the "Compromis" as well as the other Treaties which may be invoked, and in applying the principles of law.

Art. 74. The Tribunal is entitled to issue rules of procedure for the conduct of the case, to decide the forms, order, and time in which each party must conclude its arguments and to arrange all the formalities required for dealing with the evidence.

Art. 75. The parties undertake to supply the Tribunal, as fully as they consider possible, with all the information required for deciding the case.

Art. 76. For all notices which the Tribunal has to serve in the territory of a third Contracting Power, the Tribunal shall apply direct to the Government of that Power. The same rule applies in case of steps being taken to procure evidence on the spot.

The requests for this purpose are to be executed so far as the means at the disposal of the Power applied to under its municipal law allow. They cannot be rejected unless the Power in question considers them calculated to impair its own sovereign rights or its safety.

The Court will equally be always entitled to act through the Power on whose territory it sits.

Art. 77. When the agents and counsel of the parties have submitted all the explanations and evidence in support of their case the President shall declare the discussion closed.

Art. 78. The Tribunal considers its decisions in private and the proceedings remain secret.

All questions are decided by a majority of the members of the Tribunal.

Art. 79. The Award must give the reasons on which it is based. It contains the names of the Arbitrators; it is signed by the President and Registrar or by the Secretary acting as Registrar.

Art. 80. The Award is read out in public sitting, the agents and counsel of the parties being present or duly summoned to attend.

Art. 81. The Award, duly pronounced and notified to the agents of the parties, settles the dispute definitely and without appeal.

Art. 82. Any dispute arising between the parties as to the interpretation and execution of the Award shall, in the absence of an agreement to the contrary, be submitted to the Tribunal which pronounced it.

Art. 83. The parties can reserve in the "Compromis" the right to demand the revision of the Award.

In this case and unless there be an agreement to the contrary the demand must be addressed to the Tribunal which pronounced the Award. It can only be made on the ground of the discovery of some new fact calculated to exercise a decisive influence upon the Award and which was unknown to the Tribunal and to the party which demanded the revision at the time the discussion was closed.

Proceedings for revision can only be instituted by a decision of the Tribunal expressly recording the existence of the new fact, recognizing in it the character described in the preceding paragraph, and declaring the demand admissible on this ground.

The "Compromis" fixes the period within which demand for revision must be made.

Art. 84. The Award is not binding except on the parties in dispute.

When it concerns the interpretation of a Convention to which Powers other than those in dispute are parties, they shall inform all the Signatory Powers in good time. Each of these Powers is entitled to intervene in the case. If one or more avail themselves of this right, the interpretation contained in the Award is equally binding on them.

Art. 85. Each party pays its own expenses and an equal share of the expenses of the Tribunal.

Art. 86. With a view to facilitating the working of the system of arbitration in disputes admitting of a summary procedure, the Contracting Powers adopt the following rules, which shall be observed in the absence of other arrangements and subject to the reservation that the provisions of Chapter III apply so far as may be.

Art. 87. Each of the parties in dispute appoints an Arbitrator. The two Arbitrators thus selected choose an Umpire. If they do not agree on this point, each of them proposes two candidates taken from the general list of the members of the Permanent Court exclusive of the members appointed by either of the parties and not being nationals of each of them; which of the candidates thus proposed shall be Umpire is determined by lot.

The Umpire presides over the Tribunal, which gives its decision by a majority of votes.

Art. 88. In the absence of any previous agreement the Tribunal, as soon as it is formed, settles the time within which the two parties must submit their respective cases to it.

Art. 89. Each party is represented before the Tribunal by an agent, who serves as intermediary between the Tribunal and the Government who appointed him.

Art. 90. The proceedings are conducted exclusively in writing. Each party, however, is entitled to ask that witnesses and experts should be called. The Tribunal has, for its part, the right to demand oral explanations from the agents of the two parties, as well as from the experts and witnesses whose appearance in Court it may consider useful.

Part V. Final Provisions

Art. 91. The present Convention, duly ratified, shall replace, as between the Contracting Powers, the Convention for the Pacific Settlement of International Disputes of the 29th July, 1899.

Art. 92. The present Convention shall be ratified as soon as possible.

The ratifications shall be deposited at The Hague.

The first deposit of ratifications shall be recorded in a *proces-verbal* signed by the Representatives of the Powers which take part therein and by the Netherland Minister of Foreign Affairs.

The subsequent deposits of ratifications shall be made by means of a written notification, addressed to the Netherland Government and accompanied by the instrument of ratification.

A duly certified copy of the *proces-verbal* relative to the first deposit of ratifications, of the notifications mentioned in the preceding paragraph, and of the instruments of ratification, shall be immediately sent by the Netherland Government, through the diplomatic channel, to the Powers invited to the Second Peace Conference, as well as to those Powers which have adhered to the Convention. In the cases contemplated in the preceding paragraph, the said Government shall at the same time inform the Powers of the date on which it received the notification.

Art. 93. Non-Signatory Powers which have been invited to the Second Peace Conference may adhere to the present Convention.

The Power which desires to adhere notifies its intention in writing to the Netherland Government, forwarding to it the act of adhesion, which shall be deposited in the archives of the said Government.

This Government shall immediately forward to all the other Powers invited to the Second Peace Conference a duly certified copy of the notification as well as of the act of adhesion, mentioning the date on which it received the notification.

Art. 94. The conditions on which the Powers which have not been invited to the Second Peace Conference may adhere to the Present Convention shall form the subject of a subsequent Agreement between the Contracting Powers.

Art. 95. The present Convention shall take effect, in the case of the Powers which were not a party to the first deposit of ratifications, sixty days after the date of the *proces-verbal* of this deposit, and, in the case of the Powers which ratify subsequently or which adhere, sixty days after the notification of their ratification or of their adhesion has been received by the Netherland Government.

Art. 96. In the event of one of the Contracting Parties wishing to denounce the present Convention, the denunciation shall be notified in writing to the Netherland Government, which shall immediately communicate a duly certified copy of the notification to all the other Powers informing them of the date on which it was received.

The denunciation shall only have effect in regard to the notifying Power, and one year after the notification has reached the Netherland Government.

Art. 97. A register kept by the Netherlands Minister for Foreign Affairs shall give the date of the deposit of ratifications effected in virtue of Article 92, paragraphs 3 and 4, as well as the date on which the notifications of adhesion (Article 93, paragraph 2) or of denunciation (Article 94, paragraph 1) have been received.

Each Contracting Power is entitled to have access to this register and to be supplied with duly certified extracts from it.

In faith whereof the Plenipotentiaries have appended their signatures to the present Convention.⁵

A little less than seven years after the Hague "Convention for the Pacific Settlement of International Disputes" was signed, Germany and Austria-Hungary started the greatest war of all time. The only matter in issue was between Servia and Austria-Hungary, but Belgium and France were the first to be attacked, and by Germany. Servia had offered to submit its differences with Austria-Hungary to the Hague Tribunal, but the offer was rejected, and the war which has terminated the reigning dynasties of Russia, Germany and Austria-Hungary was started. This war has proved, if proof be necessary, that it is not safe to trust the peace of the world in the hands of military leaders backed by immense armies, navies and stores of munitions. One or another of them is certain at some time to use the forces at his command to further his ambitions. A great army, far in excess of every need for the preservation of internal order, is a menace to every neighboring power.

⁵ Senate Documents, 2d Session 61st Congress, 48, 2228 to 2245.

Disarmament has long been deemed essential to the preservation of peace, but there has been no superior power to compel great nations to disarm.

Questions of autonomy, alliance, boundaries and political relations, may be determined by arbitration, if all parties interested agree to it, but agreement to arbitrate such matters after the parties have failed to agree on the matters in dispute, need seldom be hoped for. Only when the opposing nations are firmly resolved that they will find a peaceful method of adjusting their differences will arbitration prove very helpful. Political questions can best be disposed of by political bodies. The more universal the representation in such a body the less the danger of the domination of selfish interests. The general conscience of all the nations is not likely to be swayed by passion or warped by the schemes of crafty men. The calm, dispassionate judgment of representatives of all the people would appear to be the best criterion of moral right that is available on earth. Such political questions cannot always be determined on fixed principles of law. They often involve questions of expediency which cannot be tested by any rules of law. In the United States questions of this kind have arisen in the organization of the western territories and their admission into the Union as States. All these matters have been settled by Congress as political questions without any aid from the courts. Political questions of this kind in great number are now presented, and will continue to arise for very many years to come, and such questions will inevitably lead to wars unless an appropriate representative body is empowered to settle them.

Courts are expected to apply pre-existing law to the states of fact presented in cases before them. Law-making in some form must precede the exercise of strictly judicial functions. The lack of clearly defined rules governing the rights and duties of neutral powers in time of war was apparent to the plenipotentiaries who framed the treaty relating to the Alabama Claims. They therefore agreed on the law relating to the case presented, though Great Britain denied that it was the law at the time of the occurrences under consideration. Be-

fore courts of any kind can inspire full confidence there must be law for them to administer, otherwise they will of necessity act in accordance with their personal views. Representatives of all the nations can formulate international law for application by the courts. Without action by such a body the law must be developed by the slow and uncertain process of the opinions of authors and judges, expressed separately, without consultation with each other, as the principles now recognized as international law have been adopted. The future always brings needs that cannot be anticipated in the present, and law-making must always relate to the known, rather than to an imaginary future. The treaties made by the nations already furnish many rules governing their relations. Many of these relate merely to matters in which two nations are interested. As to these the concurrence of other powers may not be necessary. Others concern a number of nations but not all. With these the nations interested are competent to deal. But rules of general application the world over can only be wisely formulated by representatives of all the people. It is also of vital importance that a congress legislating for all the world should be made up of representatives of the people at large in each country, and not of mere diplomats representing a ruling person, class, or body of men. It is also important that such a congress give full publicity to all its work in order that proposed action be fully discussed. In the formulation of general laws designed to furnish rules governing the intercourse of all the nations, haste is to be avoided and the most ample opportunity given for suggestions from all quarters. The necessary general rules of international law ought not to be voluminous. They should always be open to correction by the successors of those who formulate them.

Tribunals are needed to apply international law to the controversies as they arise and to construe treaties. These can be thoroughly efficient only when established in advance, with power to act on the call of any party to a controversy without any preliminary agreement with his adversary. In order to inspire confidence and respect, their powers and duties must be clearly defined by law. There must be clear, well established

laws to administer, which all nations recognize as having been sanctioned by their authority. There must be ample power to investigate all questions of fact and learn the truth regarding every claim. There must be full publicity in all proceedings except the final consultations of the judges when they agree upon their decisions. There must be ample opportunity for argument by counsel of the parties on all questions of law and fact. These principles are fundamental among all people and in all times. The Hague tribunal has only such powers as the parties confer on it after the controversy arises. The power is needed in advance of the particular controversy, and without regard to the choice of any particular nation.

In constituting an arbitration tribunal the practise has been almost universal for each party to choose one or more of the arbitrators, with power to those so chosen to complete the number by agreement, or authorizing some person or power to name the others. The fundamental idea is to compose a tribunal made up of partisans and non-partisans. The only possible advantages of including partisans are that it will insure full consideration of all the claims of the parties, allow compromises in matters of doubt, and tend to insure acceptance of the award by the defeated party. The value of either or all of these is extremely doubtful in comparison with an absolutely impartial court. A far better principle of selection is to allow each party to exclude persons he deems undesirable, rather than to choose partisans. It would seem to be a matter of no great difficulty to form an international court with a large membership, from which the parties to each case may agree on a convenient number of judges, if they see fit, and if they cannot agree, then that each party be allowed to strike an equal number from the whole list of judges, leaving those remaining as the members of the court to try the case. This practice is often followed in many of the American states in the selection of jurors, and is a speedy and satisfactory method of clearing the list of the names of objectionable men. If either party fails to strike his share the clerk or other officer of the court may be empowered to strike for him. It is indispensable to the efficient administration of justice that there be a court

with full power to act without the consent of an unwilling party. The Hague tribunal has no such power. Either party can block the work of the tribunal at any stage of its progress. It is essential that the international tribunal, being called upon to act on a matter within its jurisdiction, shall have power to compel the appearance of the party complained of, or proceed in his absence after due notice, that it shall have full power to regulate the procedure before it and to compel the production of evidence, and to finally decide the controversy and dispose of all the questions of law and of fact involved in it. Having rendered final judgment in a case it must not be left to the good faith of the parties to abide by and perform it. There must be adequate power to enforce it.

Here appears to be the most difficult problem in international organization. To compel a great unwilling nation to submit and comply with an adverse judgment appears a task of extreme difficulty. It will continue to be so until the statesmen of all countries appreciate the necessity of submitting to what they regard in some cases as unjust judgments. Compulsory enforcement of such judgments against nations maintaining great armies and navies might prove productive of far more harm than good. Disarmament of all the nations down to the limit of their needs for the preservation of internal order seems to be a condition precedent to forcible execution of the judgments of a world court. Manifestly the executive force which compels compliance with such judgments must be greatly superior to the force that it may be confronted with. But whatever the difficulties to be encountered in the organization of such a court and in the execution of its decrees, no other method of determining controversies which the parties can not settle by any kind of an agreement among themselves has ever yet been devised by man. The impartial judgment of some body of able disinterested men must be allowed to stand as the best obtainable solution of international controversies, and the people of all countries must be educated to cheerfully accept and abide by it. How far the Hague Convention falls short of the needed requirements is readily apparent from the necessity for voluntary agreement step by

step in the submission of the case and for voluntary performance of the award made by the tribunal.

FORCIBLE COLLECTION OF CLAIMS

The right to compel the payment of money demands by military forces has often been asserted and exercised, especially by strong nations in dealing with weaker ones. This right has usually been asserted by way of seizure of a port, district, or property, of the debtor nation, not as an avowed act of war, but as a reprisal. The rule of international law applicable is thus stated by Vattel: "Reprisals are used between nation and nation in order to do themselves justice when they cannot otherwise obtain it. If a nation has taken possession of what belongs to another; if it refuses to pay a debt or repair an injury, or to make a just satisfaction, the latter may seize what belongs to the former, and apply it to his own advantage, till it obtains full payment for what is due, together with interest and damages; or keep it as a pledge till the offending nation has made ample satisfaction. The effects thus seized are preserved, while there is any hope of obtaining satisfaction or justice, as soon as that hope disappears they are confiscated, and then the reprisals are accomplished. If the two nations upon this ground of quarrel, come to an open rupture, satisfaction is considered as refused from the moment that the war is declared, or hostilities commenced; and then, also the effects seized may be confiscated."⁶

When an embargo was laid on Dutch property in the ports of Great Britain, on the rupture of the peace of Amiens, in 1803, Lord Stowell announced the law applicable to such cases, as follows: "The seizure was at first equivocal, and if the matter in dispute had terminated in reconciliation the seizure would have been converted into a civil embargo, and so terminated. Such would have been the retroactive effect of that course of circumstances. On the contrary, if the transaction ended in hostility, the retroactive effect is exactly the other way. It impresses the direct hostile character upon the

⁶ Vattel, lib. II ch. xvii § 342.

original seizure; it is declared to be no embargo; it is no longer an equivocal act, subject to two interpretations; there is a declaration of the animus by which it is done; that it was done *hostili animo*, and it is to be considered as a hostile measure, *ab initio*, against persons guilty of injuries which they refuse to redeem by any amicable alteration of their measures. This is the necessary course, if no compact intervenes for the restoration of such property, taken before a formal declaration of hostilities."⁷

As reprisals are likely to lead to war the authority to make or allow them to be made is vested in the sovereign power. "Without such authority previously given, or its exercise subsequently ratified by the supreme authority of the State, reprisals or seizures are not justified by the law of nations."⁸ The right of a state to authorize reprisals is confined to its own citizens and may not be granted to foreigners.⁹ The right to make seizures and reprisals is justified on the ground that each government must protect its own people in their dealings with foreign nations and their people, and that when satisfaction of a just obligation is denied the injured party has no other means of enforcing his right. This reasoning is consistent with the theory of ultimate sovereignty in the government of each nation, and with the existence of a state of anarchy in the relations of the governments. It is wholly inconsistent with the general welfare of the great community of nations.

The Hague Conference sought to put an end to the forcible collection of claims and the first article of the second convention concluded at the second conference contains an agreement of all the contracting powers not to have recourse to armed force for the recovery of contract debts; but this agreement is limited and declared inapplicable when the debtor state refuses an offer of arbitration or to perform an award.

⁷ Halleck's Int. Law, 1-517. The Boedes Lust, 5 Rob. 246; The Diana 5 Rob. 60.

⁸ Halleck's Int. Law, 1-518. 40 Cyc. 308.

⁹ Bynkershoek, *De Fore Legat*, c. xxii § 5.

The important forward step made by the treaty is that it pledges the parties to it not to resort to force to collect disputed claims before their validity has been established by arbitration or the debtor has refused to arbitrate. As claims of this kind are continually arising any agreement tending to induce the amicable settlement of them adds materially to the maintenance of peace.

CONVENTION RESPECTING THE LIMITATION OF THE EMPLOYMENT OF
FORCE FOR THE RECOVERY OF CONTRACT DEBTS

Article 1. The Contracting Powers agree not to have recourse to armed force for the recovery of contract debts claimed from the Government of one country by the Government of another country as being due to its nationals.

This undertaking is, however, not applicable when the debtor State refuses or neglects to reply to an offer of arbitration, or, after accepting the offer, prevents any "Compromis" from being agreed on, or, after the arbitration, fails to submit to the award.

Art. 2. It is further agreed that the arbitration mentioned in paragraph 2 of the foregoing Article shall be subject to the procedure laid down in Part IV, Chapter III, of The Hague Convention for the Pacific Settlement of International Disputes. The award shall determine, except where otherwise agreed between the parties, the validity of the claim, the amount of the debt, and the time and mode of payment.

Art. 3. The present Convention shall be ratified as soon as possible.

The ratifications shall be deposited at The Hague.

The first deposit of ratifications shall be recorded in a *proces-verbal* signed by the Representatives of the Powers taking part therein and by the Netherlands Minister for Foreign Affairs.

The subsequent deposit of ratifications shall be made by means of written notification addressed to the Netherland Government and accompanied by the instrument of ratification.

A duly certified copy of the *proces-verbal* relative to the first deposit of ratifications, of the notifications mentioned in the preceding paragraph, as well as of the instruments of ratification, shall be sent immediately by the Netherland Government, through the diplomatic channel, to the Powers invited to the Second Peace Conference, as well as to the other Powers which have adhered to the Convention. In the cases contemplated in the preceding paragraph, the said Government shall inform them at the same time of the date on which it received the notification.

Art. 4. Non-Signatory Powers may adhere to the present Convention.

The Power which desires to adhere notifies its intention in writing to the Netherland Government, forwarding to it the act of adhesion, which shall be deposited in the archives of the said Government.

The said Government shall forward immediately to all the other Powers invited to the Second Peace Conference a duly certified copy of the notification, as well as of the act of adhesion, mentioning the date on which it received the notification.

Art. 5. The present Convention shall come in force, in the case of the Powers which were a party to the first deposit of ratifications, sixty days after the date of the *procès-verbal* of this deposit, in the case of the Powers which ratify subsequently or which adhere, sixty days after the notification of their ratification or of their adhesion has been received by the Netherland Government.

Art. 6. In the event of one of the Contracting Powers wishing to denounce the present Convention, the denunciation shall be notified in writing to the Netherland Government, which shall immediately communicate a duly certified copy of the notification to all the other Powers, informing them at the same time of the date on which it was received.

The denunciation shall only have effect in regard to the notifying Power, and one year after the notification has reached the Netherland Government.

Art. 7. A register kept by the Netherland Ministry for Foreign Affairs shall give the date of the deposit of ratifications made in virtue of Article III, paragraphs 3 and 4, as well as the date on which the notifications of adhesion or of denunciation were received.

Each Contracting Power is entitled to have access to this register and to be supplied with duly certified extracts from it.

In faith whereof the Plenipotentiaries have appended their signatures to the present Convention.¹⁰

DECLARATION OF WAR

Prior to the Second Hague Conference, war could exist without a declaration of war by either party.¹¹ It was held in England that, "It is by no means necessary that both countries should declare war. Whatever might be the prostration and submissive demeanor on one side, if France was unwilling to accept that submission, and persisted in attacking Portugal, it was sufficient."¹² Actual hostilities determined the date of

¹⁰ Senate Documents, 2d Session 61st Congress, 48, 2254.

¹¹ *Matthews v. McStea*, 91 U. S. 7. *Thorington v. Smith*, 8 Wall. 1. *Marks v. U. S.* 28 Ct. Cl 147-161 U. S. 297. *The Teutonia*, L. R. 4. P. C. 171; *Takahashi Russo-Japanese War*, 6.

¹² *The Nayade*, 4 C. Rob. 251, 253.

the commencement of the war when no declaration was made.¹³ It was said by the Supreme Court of the United States: "Insurrection against a government may or may not culminate in an organized rebellion, but a civil war always begins by insurrection against the lawful authority of the Government. A civil war is never solemnly declared; it becomes such by its accidents—the number, power, and organization of the persons who organize and carry it on."¹⁴

The Hague convention requires explicit warning to the adverse party before the commencement of hostilities and that neutral powers be notified of the existence of a state of war without delay. This may be a matter of much importance in determining property rights under international law, for the date of the commencement of a war is often the decisive point in the case. No length of notice is provided for in the convention and in the nature of things it has no application to insurrections and civil wars.

CONVENTION RELATIVE TO THE OPENING OF HOSTILITIES

Article I. The Contracting Powers recognize that hostilities between themselves must not commence without previous and explicit warning, in the form either of a reasoned declaration of war or an ultimatum with conditional declaration of war.

Art. 2. The existence of a state of war must be notified to the neutral Powers without delay, and shall not take effect in regard to them until after the receipt of a notification, which may, however, be given by telegraph. Neutral Powers, nevertheless, cannot rely on the absence of notification if it is clearly established that they were in fact aware of the existence of a state of war.

Art. 3. Article I of the present convention shall take effect in case of war between two or more of the Contracting Powers.

Article II is binding as between a belligerent Power which is a party to the Convention and neutral Powers which are also parties to the Convention.

(Articles 4, 5, 6, 7 and 8 contain the usual final provisions.)¹⁵

¹³ *The Buena Ventura*, 87 Fed. 927, 175 U. S. 384.

¹⁴ *Prize Cases*, 2 Black (U. S.) 635, 666.

¹⁵ Senate Documents, 2d Session 61st Congress, 48, 2254.

LAWS AND CUSTOMS OF WAR ON LAND

The second Hague Conference gave much earnest consideration to the conventions designed to mitigate the barbarities of war. Writers on international law have found it exceedingly difficult to lay down precise rules to be followed by military commanders and their subordinates. The armed forces of each belligerent are organized for the purpose of overpowering or destroying the forces opposed to them. This is not attempted by any test of the muscular strength of the men engaged in the conflict, but war is carried on with arms and devices designed to kill men and destroy property. Wholesale slaughter of the armed forces of the enemy is still the purpose of every commander who directs the operations of an army in battle. Disregard of human life is inseparable from the operations of war. Human ingenuity continues to invent more efficient means of killing enemies and destroying property. In the nature of things war cannot be humane. Yet the inherent savagery of war may be mitigated by the observance of rules limiting the authority of soldiers to kill to the armed forces of their enemies who persist in opposing them. The exigencies and vicissitudes of war, the excitement of battle, the physical and mental strains on commanders and men, the effects on the mind of hunger, exhaustion, heat and cold, render the enforcement of humane regulations extremely difficult.

The Hindu rules for the conduct of war copied from the Code of Manu above¹⁶ are rather more than less stringent than the Hague Convention on the subject, yet it would be exceedingly hazardous to assert that the actual practices of the natives of India have been more humane than those of modern Europeans, although the Code of Manu has been the Brahman law for thousands of years. The religious sentiments of the Greeks and Romans placed some restrictions on the conduct of their wars, but time, place, circumstances, and above all the personal character of commanders, caused great diversity in the treatment of enemies. Alexander destroyed all of Thebes but the house of the poet Pindar, but at the battle of Granicus

¹⁶ Supra, p. 15.

he took 2,000 Persians prisoners. Exasperated by the resistance offered by Tyre he hanged 2,000 of its citizens after it surrendered to him. At Persepolis he slaughtered the men and enslaved the women, but at Sungala he is credited with having taken 70,000 Indians prisoners. His mood at the time determined the fate of his enemies who fell under his power. The Babylonians, Assyrians and Persians varied their treatment of captured enemies from extreme cruelty to great liberality, according to the character of the rulers and generals in command and the prevailing spirit of the times. The Greeks destroyed Troy and its people, and a thousand years later the Romans destroyed Carthage, yet the usual custom of both Greeks and Romans was to accept the surrender of cities and prisoners, but prisoners were often enslaved. Roman generals took great pride in the triumphs awarded them after successful wars, and in leading distinguished captives and their followers in the triumphal processions. Caesar was accounted more humane in his treatment of enemies than many other generals. He forced the defeated Helvetians to reoccupy their own country, which they had deserted and devastated, not merely as a merciful measure, but as a protection against German tribes. He "brought many captives home to Rome whose ransom did the general coffers fill." Plutarch says that in the wars in Gaul he met armies aggregating three millions in number, and that of these he killed one million and took another million prisoners.

Charlemagne nearly a thousand years later was credited with being humane and politic for his age, but his treacherous slaughter of 4,500 Saxons who had revolted was a shocking exhibition of cruelty for any age. When the Crusaders under Godfrey de Bouillon took Jerusalem in 1099 as followers of the Prince of Peace they massacred the Mohammedan inhabitants, but when Saladin leading the followers of the Prophet, who commanded the propagation of the word by the sword, retook the city in 1187, he was more merciful and allowed the captive Christians to live. The command of the Prophet was: "When ye encounter the unbelievers strike off

their heads until ye have made a great slaughter among them, and bind them in bonds; and either give them a free dismissal afterwards or exact a ransom until the war shall have laid down its arms."¹⁷ When the Turks took Constantinople in 1453 it was given over to indiscriminate slaughter. The savageries of the Thirty Years War were too many and too horrible to be mentioned in detail. Europe seemed to have relapsed into utter barbarism. But during the eighteenth and nineteenth centuries there was a very well defined sentiment in favor of rules to be observed in the conduct of war. While there were many instances of slaughter of prisoners and even of defenseless civilians, the rule was that commanders spared the lives of prisoners and provided for their maintenance. Enslavement of prisoners or of the civilians in occupied territory of the enemy has not been sanctioned. The custom of holding prisoners for ransom has obtained only among barbarians and bandits since ancient times. Writers on international law have devoted especial attention to the rules governing the conduct of belligerents and the rights and duties of neutrals in times of war, and have uniformly condemned the slaughter or mistreatment of prisoners and all unnecessary invasion of the rights of noncombatants. Military commanders have been schooled to the observance of these principles and in the United States the articles of war regulate all these matters and render officers and men liable for violation of the law.¹⁸ Similar laws governing the conduct of armies are in force in all civilized states. In this manner international law becomes the municipal law of the states that adopt it, and is enforced by them in accordance with their peculiar views. There being no international superior to enforce it, it has no other sanction than such as each separate nation affords.

When conflicts occur between private persons and redress is sought for wrongs done in them it becomes a matter of prime importance to inquire who was the aggressor and what if any justification existed for the acts complained of. The aggressor must avoid all injury to bystanders. But it is not so in

¹⁷ Sale's Koran, Ch. 47.

¹⁸ Compiled Statutes of the United States, 1818, § 2308a.

conflicts between nations. "The law of nations makes no distinction, in this respect, between a just and an unjust war, both of the belligerent parties being entitled to all the rights of war as against the other, and with respect to neutrals. Each party may employ force, not only to resist the violence of the other, but also to secure the objects for which the war is undertaken. The first and most important of these rights, which the state of war has conferred upon the belligerents, is that of taking human life. This right, in its full extent, authorizes the individuals of the one party to kill and destroy those of the other, whenever milder means are insufficient to conquer them or bring them to terms."¹⁹ This right having been accorded to belligerents it is not strange that men who actually conduct the operations of armies discredit the efficiency and doubt the utility of regulations designed to mitigate the suffering resulting from the legitimate operations of armies. "The ferocity of war in actual practice will not suffer itself to be tied by hard and fast rules."²⁰

A copy of the "Manual of the Laws of War by Land," published in the *Institut de Droit International* in 1880, having been sent to Count von Moltke he wrote as follows: "You have been so good as to forward to me the Manual published by the *Institut de Droit International* and you hope for my approval of it. In the first place, I fully appreciate the philanthropic effort to soften the coils which result from war. Perpetual peace is a dream, and it is not even a beautiful dream. War is an element in the order of the world ordained by God. In it the noblest virtues of mankind are developed; courage and abnegation of self, faithfulness to duty, and the spirit of sacrifice; the soldier gives his life. Without war the world would stagnate, and lose itself in materialism. I agree entirely with the proposition contained in the introduction that a gradual softening of manners ought to be reflected also in the mode of making war. But I go further, and think the soft-

¹⁹ Halleck's Int. Law, 2-15. Vattel b. iii, ch. viii, §§ 136, 137, 138. Wheaton, Elm. Int. Law, pt. iv. ch. ii, § 1.

²⁰ Halleck's Int. Law, 2-18.

ening of manners can alone bring about this result, which cannot be obtained by a codification of the laws of war. Every law presupposes an authority to superintend and direct its execution, and international conventions are supported by no such authority. What neutral states would ever take up arms for the sole reason that two Powers being at war the 'laws of war' had been violated by one or both of the belligerents? For offences of that sort there is no earthly judge. Success can come only from the religious, moral education of individuals, and from the feeling of honor and sense of justice of commanders who enforce the law and conform to it, so far as the exceptional circumstances of war permit. This being so, it is necessary to recognize also that increased humanity in the mode of making war has in reality followed upon the gradual softening of manners. Only compare the horrors of the Thirty Years' War with the struggles of modern times. A great step has been made in our own day by the establishment of compulsory military service, which introduces the educated classes into armies. The brutal and violent element is, of course, still there, but it is no longer alone, as it once was. Again, Governments have two powerful means of preventing the worst kind of excesses—strict discipline maintained in time of peace so that the soldier has become habituated to it, and care on the part of the department which provides for the subsistence of troops in the field. If that care fails, discipline can only be imperfectly maintained. It is impossible for the soldier who endures sufferings, hardships, fatigues, who meets danger to take only 'in proportion to the resources of the country.' He must take whatever is needful for his existence. We cannot ask him for what is superhuman. 'The greatest kindness in war is to bring it to a speedy conclusion.' It should be allowable with that view to employ all methods save those which are absolutely objectionable. I can by no means profess agreement with the declaration of St. Petersburg when it asserts that 'the weakening of the military forces of the enemy' is the only lawful procedure in war. No, you must attack all the resources of the enemy's Government—its finances, its rail-

ways, its stores, and even its prestige. Thus energetically, and yet with moderation previously unknown, was the late war against France conducted. The issue of the campaign was decided in two months, and the fighting did not become embittered till a revolutionary government, unfortunately for the country, prolonged the war for four more months. I am glad to see that the manual, in clear and precise articles, pays more attention to the necessities of war than has been paid by previous attempts, but for Governments to recognize these rules will not be enough to insure that they shall be observed. It has long been a universally recognized custom of warfare that a flag of truce must not be fired on, and yet we have seen that rule violated on several occasions during the late war. Never will an article learnt by rote persuade soldiers to see a regular in the unorganized population which takes up arms 'spontaneously' and puts them in danger of their life at every moment of day and night. Certain requirements of the Manual might be impossible of realization — for instance, the identification of the slain after a great battle. Other requirements would be open to criticism did not the intercalation of such words as 'if circumstances permit,' 'if possible,' 'if it can be done,' 'if necessary' give them an elasticity, but for which the bonds they impose must be broken by inexorable reality. I am of the opinion that in war, where everything must be individual, the only Articles which will prove efficacious are those which are addressed specifically to commanders. Such are the rules of the Manual relating to the wounded, the sick, the surgeons, and medical appliances. The general recognition of the principles, and of those also which relate to prisoners, would mark a distinct step of progress toward the goal pursued with so honorable persistency by the *Institut de Droit International*.²¹

This is perhaps as fair an expression of the views then entertained in the military circles of Germany as can be obtained. That war is ordained by God and good in and of itself is a proposition shocking to the moral sense and inconsistent with

²¹ Halleck's Int. Law, 2, 18. (4th Ed.)

von Moltke's own argument. All will agree that it induces the exercise of the heroic virtues of the soldier, but these are put forth not to bring on or to prolong the war, but "to bring it to a speedy conclusion." Ordinarily it is not the soldier, high or low, who starts the war, but the political head of the government. The soldier makes sacrifices, but somebody compels him to do so. Do those who bring on war requiring these sacrifices do a good deed? If war is good why bring it to an end? If only periodical wars are desirable, how long should be the periods of war and how long the periods of peace? It will not do to confuse the virtues of the good soldier with the vices of war. They are not counterparts of each other, but the virtues of the soldier have to be exerted to overcome the vices of war. To say that war is essentially good is to say that it is good to kill and destroy, to commit crimes in its name. This could only be so if savagery were better than civilization, death better than life, destitution and misery better than abundance and happiness. There is at all time ample opportunity to face danger, to sacrifice self, to be faithful, courageous and strong for the service of mankind, without waiting for a call to go out and kill fellow men. Von Moltke expressed the fundamental false doctrine on which Prussian militarism was based and which doomed it to destruction.

His comments on the inefficiency of rules for the conduct of war as a means of mitigating its evils are entitled to far more consideration. War is savage in its very essence. Its concomitants will inevitably partake in greater or less degree of its nature. Its fury can not be restricted to the shock of battle, but will linger longer than the smoke of the powder. Humane regard for fellow men in the opposing army is deadened by the sight of fallen comrades, the madness of the struggle, the suffering and exhaustion of the march and the trench. All the great nations engaged in the late war were parties to the Hague conventions. Among these the one Respecting the Laws and Customs of War on Land with accompanying Regulations, that respecting the Rights and Duties of Neutral Powers and Persons in case of War on Land, and prohibiting the discharge of Projectiles and Explosives from Balloons, as well as the Gen-

eva conventions relating to the treatment of the sick, wounded and prisoners, were in full force as to all the actual belligerents during the whole period of the war, yet it is difficult if not impossible to find an important provision in any of these conventions that has not been violated both in letter and in spirit over and over again. Prisoners have been compelled to work at tasks directly connected with the operations of war, in violation of Article VI of the Regulations; they have not been fed, lodged and clothed on the same footing as the troops of the captors, as provided in Article VII; Red Cross hospitals and ambulances have been bombarded, surgeons, nurses and attendants have been purposely killed in violation of Article XXI; poison has been employed, soldiers who had surrendered have been killed, arms, projectiles and materials calculated to cause unnecessary suffering have been generally and continually used, in violation of Article XXIII; buildings dedicated to religion, art, science and charitable purposes, historical monuments, hospitals, and places where the sick and wounded were collected, have been made especial targets for bombardment, instead of being spared as required by Article XXVII; cities and towns have been pillaged, even when not taken by assault, in violation of Article XXVIII; family honor and the lives and property of private persons have not been respected, but private property has been confiscated and pillaged in violation of Articles XLVI and XLVII; general penalties have been inflicted for the acts of individuals in violation of Article L; cash, funds and securities not the property of the enemy state have been seized and confiscated, contrary to Article LIII; public and private property have been ruthlessly destroyed in violation of Articles LV and LVI. The territory of neutral powers has been invaded in violation of Articles I and II of the treaty concerning the rights and duties of neutrals; and last and by far the most important of the violations of these conventions is that of discharging projectiles and explosives from the air, not alone on military objects but on private homes, civilians engaged in their peaceful duties and pleasures, women, children, churches, hospitals and all other places where death and destruction could be caused. These multifarious violations of the

conventions so recently entered into afford abundant proof of the impracticability of making war a humane operation. It does not follow that no good has resulted from the rules agreed upon. Some benefit has resulted from them. Some commanders have observed them. Some lives have been spared and some suffering prevented, but these slight gains pale into insignificance when posted by the side of the appalling lists of killed and wounded, and of those who have suffered and died from exposure, want and starvation.

Though the lesson has been taught over and over ever since the dawn of history, conditions never before have been such that the remedy could be applied to the evil at its source. It is now recognized by the statesmen of all the great nations that a remedy must be found that will relieve, not merely from the incidents of war, but from war itself. The moral sentiments of humanity have asserted themselves throughout the world and the determining factor of the war has been, not the vast armies and equipments provided through a long series of years by military leaders, but the general condemnation of the ruthless use of force without any valid cause for war, the disregard of solemn treaties as well as of moral obligations. Outraged humanity has brought the great nations of the world together in a war the avowed purpose of which is to make an end of war. The need is clearly recognized and asserted, and the manner in which the power of all is to be combined to preserve the peace of each and all has already been outlined. The problem of world organization for this purpose is not essentially new in principle, but larger than that of the organization of a single nation. It may be more difficult of accomplishment, but in principle it appears less complicated than the organization of the governmental machinery of one of the great nations. The provisions of the Hague conventions on the subject of restricting the savagery of war on land are as follows:

CONVENTION RESPECTING THE LAWS OF WAR ON LAND

Article I. The Contracting Powers shall issue instructions to their armed land forces which shall be in conformity to the Regulations respecting the laws and Customs of War on Land, annexed to the present Convention.

Art. 2. The provisions contained in the Regulations referred to in Article I, as well as in the present Convention, do not apply except between Contracting Powers, and then only if all the belligerents are parties to the Convention.

Art. 3. A belligerent party which violates the provisions of the said Regulations shall, if the case demands, be liable to pay compensation. It shall be responsible for all acts committed by persons forming part of its armed force.

Art. 4. The present Convention, duly ratified, shall as between the Contracting Powers, be substituted for the Convention of the 29th of July, 1899, respecting the Laws and Customs of War on Land.

The Convention of 1899 remains in force as between the Powers which signed it, and which do not also ratify the present Convention.

(Articles 5, 6, 7, 8 and 9 contain the usual general provisions.)²²

Regulations respecting the Laws and Customs of War on Land

Section I. On Belligerents

Chapter I—The Qualifications of Belligerents

Article 1. The laws, rights, and duties of war apply not only to armies, but also to militia and volunteer corps fulfilling the following conditions:

1. To be commanded by a person responsible for his subordinates.
2. To have a fixed distinctive emblem recognizable at a distance.
3. To carry arms openly; and
4. To conduct their operations in accordance with the laws and customs of war.

In countries where militia or volunteer corps constitute the army, or form part of it, they are included under the denomination "army."

Art. 2. The inhabitants of a territory which has not been occupied, who, on the approach of the enemy, spontaneously take up arms to resist the invading troops without having had time to organize themselves in accordance with Article I, shall be regarded as belligerents if they carry arms openly and if they respect the laws and customs of war.

Art. 3. The armed forces of the belligerent parties may consist of combatants and noncombatants. In the case of capture by the enemy, both have a right to be treated as prisoners of war.

Chapter II—Prisoners of War

Art. 4. Prisoners of war are in the power of the hostile Government, but not of the individuals or corps who capture them.

They must be humanely treated.

All their personal belongings, except arms, horses, and military papers, remain their property.

²² Senate Documents, 2d Session 61st Congress, 48, 2269.

Art. 5. Prisoners of war may be interned in a town, fortress, camp, or other place, and bound not to go beyond certain fixed limits; but they cannot be confined except as an indispensable measure of safety and only while the circumstances which necessitate the measure continue to exist.

Art. 6. The State may utilize the labour of prisoners of war according to their rank and aptitude, officers excepted. The task shall not be excessive and shall have no connection with the operations of the war.

Prisoners may be authorized to work for the public service, for private persons, or on their own account.

Work done for the State is paid at the rates in force for work of a similar kind done by soldiers of the national army, or, if there are none in force, at a rate according to the work executed.

When the work is for other branches of the public service or for private persons the conditions are settled in agreement with the military authorities.

The wages of the prisoners shall go towards improving their position, and the balance shall be paid them on their release, after deducting the cost of their maintenance.

Art. 7. The Government into whose hands prisoners of war have fallen is charged with their maintenance.

In the absence of a special agreement between the belligerents prisoners of war shall be treated as regards board, lodgings, and clothing on the same footing as the troops of the Government who captured them.

Art. 8. Prisoners of war shall be subject to the laws, regulations, and orders in force in the army of the State in whose power they are. Any act of insubordination justifies the adoption toward them of such measures of severity as may be considered necessary.

Escaped prisoners who are retaken before being able to rejoin their own army or before leaving the territory occupied by the army which captured them are liable to disciplinary punishment.

Prisoners who, after succeeding in escaping, are again taken prisoners, are not liable to any punishment on account of the previous flight.

Art. 9. Every prisoner of war is bound to give, if he is questioned on the subject, his true name and rank, and if he infringes this rule, he is liable to have the advantages given to prisoners of his class curtailed.

Art. 10. Prisoners of war may be set at liberty on parole if the laws of their country allow, and, in such cases, they are bound, on their personal honor, scrupulously to fulfil, both towards their own Government and the Government by whom they were made prisoners, the engagements they have contracted.

In such cases their own government is bound neither to require of nor accept from them any service incompatible with the parole given.

Art. 11. A prisoner of war cannot be compelled to accept his liberty on parole; similarly the hostile Government is not obliged to accede to the request of the prisoner to be set at liberty on parole.

Art. 12. Prisoners of war liberated on parole and recaptured bearing arms against the Government to whom they had pledged their honor, or against the allies of that government, forfeit their right to be treated as prisoners of war, and can be brought before the Courts.

Art. 13. Individuals who follow an army without directly belonging to it, such as newspaper correspondents and reporters, sutlers and contractors, who fall into the enemy's hands and whom the later thinks expedient to detain, are entitled to be treated as prisoners of war, provided they are in the possession of a certificate from the military authorities of the army which they were accompanying.

Art. 14. An inquiry office for prisoners of war is instituted on the commencement of hostilities in each of the belligerent States, and when necessary, in neutral countries which have received belligerents in their territory. It is the function of this office to reply to all inquiries about prisoners. It receives from the various services concerned full information respecting interments and transfers, releases on parole, exchanges, escapes, admissions into hospital, deaths, as well as other information necessary to enable it to make out and keep up to date an individual return for each prisoner of war. The office must state in this return the regimental number, name and surname, age, place of origin, rank, unit, wounds, date and place of capture, internment, wounding, and death, as well as any observations of a special character. The individual return shall be sent to the Government of the other belligerent after the conclusion of peace.

It is likewise the function of the inquiry office to receive and collect all objects of personal use, valuables, letters, etc., found on the field of battle or left by prisoners who have been released on parole, or exchanged, or who have escaped, or died in hospital or ambulances, and to forward them to those concerned.

Art. 15. Relief societies for prisoners of war, which are properly constituted in accordance with the laws of their country and with the object of serving as the channel for charitable effort shall receive from the belligerents, for themselves and their duly accredited agents every facility for the efficient performance of their humane task within the bounds imposed by military necessities and administrative regulations. Agents of these societies may be admitted to the places of interment for the purpose of distributing relief, as also to the halting places of repatriated prisoners, if furnished with a personal permit by the military authorities, and on giving an undertaking in writing to comply with all measures of order and police which the latter may issue.

Art. 16. Inquiry offices enjoy the privilege of free postage. Letters, money orders, and valuables, as well as parcels post, intended for prisoners of war, or dispatched by them, shall be exempt from all postal duties in the countries of origin and destination, as well as in the countries they may pass through.

Presents and relief in kind for prisoners of war shall be admitted free

of all import or other duties, as well as of payments for carriage by the State railways.

Art. 17. Officers taken prisoners shall receive the same rate of pay as officers of corresponding rank in the country where they are detained, the amount to be ultimately refunded by their own Government.

Art. 18. Prisoners of war shall enjoy complete liberty in the exercise of their religion, including attendance at the services of whatever church they may belong to, on the sole condition that they comply with the measures of order and police issued by the military authorities.

Art. 19. The wills of prisoners of war are received or drawn up the same way as for soldiers of the national army. ..

The same rules shall be observed regarding death certificates as well as for the burial of prisoners of war, due regard being paid to their grade and rank.

Art. 20. After the conclusion of peace, the repatriation of prisoners of war shall be carried out as quickly as possible.

Chapter III—The Sick and Wounded

Art. 21. The obligations of belligerents with regard to the sick and wounded are governed by the Geneva Convention.

Section II. Hostilities

Chapter I—Means of Injuring the Enemy, Sieges, and Bombardments

Art. 22. The rights of belligerents to adopt means of injuring the enemy are not unlimited.

Art. 23. In addition to the prohibitions provided by special Conventions, it is especially forbidden.

- (a) To employ poison or poisoned weapons;
- (b) To kill or wound treacherously individuals belonging to the hostile nation or army;
- (c) To kill or wound an enemy who, having laid down his arms, or having no longer means of defence, has surrendered at discretion;
- (d) To declare that no quarter will be given;
- (e) To employ arms, projectiles, or material calculated to cause unnecessary suffering;
- (f) To make improper use of a flag of truce, of the national flag, or of the military insignia and uniform of the enemy, as well as the distinctive badges of the Geneva Convention;
- (g) To destroy or seize the enemy's property, unless such destruction or seizure be imperatively demanded by the necessities of war;
- (h) To declare abolished, suspended, or inadmissible in a court of law the rights and actions of the nationals of the hostile party.

A belligerent is likewise forbidden to compel the nationals of the hostile

party to take part in the operations of war directed against their own country, even if they were in the belligerent's service before the commencement of the war.

Art. 24. Ruses of war and the employment of measures necessary for obtaining information about the enemy and the country are considered permissible.

Art. 25. The attack or bombardment, by whatever means, of towns, villages, dwellings, or buildings which are undefended is prohibited.

Art. 26. The officer in command of an attacking force must, before commencing a bombardment, except in case of assault, do all in his power to warn the authorities.

Art. 27. In sieges and bombardments all necessary steps must be taken to spare, as far as possible, buildings dedicated to religion, art, science, or charitable purposes, historic monuments, hospitals, and places where the sick and wounded are collected, provided that they are not being used at the time for military purposes.

It is the duty of the besieged to indicate the presence of such buildings or places by distinctive and visible signs, which shall be notified to the enemy beforehand.

Art. 28. The pillage of a town or place, even when taken by assault, is prohibited.

Chapter II—Spies

Art. 29. A person can only be considered a spy when, acting clandestinely or on false pretenses, he obtains or endeavors to obtain information in the zone of operations of a belligerent, with the intention of communicating it to the hostile party.

Thus, soldiers not wearing a disguise who have penetrated into the zone of the operations of the hostile army, for the purpose of obtaining information, are not considered spies. Similarly, the following are not considered spies: Soldiers and civilians, carrying out their mission openly, entrusted with the delivery of dispatches intended either for their own army or for the enemy's army. To this class belong likewise persons sent in balloons for the purpose of carrying dispatches and, generally, of maintaining communications between the different parts of an army or a territory.

Art. 30. A spy taken in the act shall not be punished without previous trial.

Art. 31. A spy who, after rejoining the army to which he belongs, is subsequently captured by the enemy, is treated as a prisoner of war, and incurs no responsibility for his previous acts of espionage.

Chapter III—Flags of Truce

Art. 32. A person is regarded as bearing a flag of truce who has been authorized by one of the belligerents to enter into communication with

the other, and who advances bearing a white flag. He has a right to inviolability, as well as the trumpeter, bugler or drummer, the flag-bearer and interpreter who may accompany him.

Art. 33. The commander to whom a flag of truce is sent is not in all cases obliged to receive it.

He may take all the necessary steps to prevent the envoy taking advantage of his mission to obtain information.

In case of abuse, he has the right to detain the envoy temporarily.

Art. 34. The envoy loses his right of inviolability if it is proved in a clear and incontestable manner that he has taken advantage of his privileged position to provoke or commit an act of treachery.

Chapter IV—Capitulations

Art. 35. Capitulations agreed upon between the contracting parties must take into account the rules of military honour.

Once settled, they must be scrupulously observed by both parties.

Chapter V—Armistices

Art. 36. An armistice suspends military operations by mutual agreement between the belligerent parties. If its duration is not defined, the belligerent parties may resume operations at any time, provided always that the enemy is warned within the time agreed upon, in accordance with the terms of the armistice.

Art. 37. An armistice may be general or local. The first suspends the military operations of the belligerent States everywhere; the second only between certain fractions of the belligerent armies and within a fixed radius.

Art. 38. An armistice must be notified officially and in good time to the competent authorities and to the troops. Hostilities are suspended immediately after the notification, or on the date fixed.

Art. 39. It rests with the contracting parties to settle, in the terms of the armistice, what communications may be held in the theater of war with the inhabitants and between the inhabitants of one belligerent State with those of the other.

Art. 40. Any serious violation of the armistice by one of the parties gives the other party the right of denouncing it, and even, in cases of urgency, of recommencing hostilities immediately.

Art. 41. A violation of the terms of the armistice by private persons acting on their own initiative only entitles the injured party to demand the punishment of the offenders or, if necessary, compensation for the losses sustained.

Section III. Military Authority over the Territory of the Hostile State

Art. 42. Territory is considered occupied when it is actually placed under the authority of the hostile army.

The occupation extends only to the territory where such authority has been established and can be exercised.

Art. 43. The authority of the legitimate power having in fact passed into the hands of the occupant, the latter shall take all the measures in his power to restore, and ensure, as far as possible, public order and safety, while respecting, unless absolutely prevented, the laws in force in the country.

Art. 44. A belligerent is forbidden to force the inhabitants of territory occupied by it to furnish information about the army of the other belligerent, or about its means of defence.

Art. 45. It is forbidden to compel the inhabitants of occupied territory to swear allegiance to the hostile Power.

Art. 46. Family honour and rights, the lives of persons, and private property, as well as religious convictions and practice, must be respected.

Private property cannot be confiscated.

Art. 47. Pillage is formally forbidden.

Art. 48. If, in the territory occupied, the occupant collects the taxes, dues, and tolls imposed for the benefit of the State, he shall do so, as far as possible, in accordance with the rules of assessment and incidence in force, and shall in consequence be bound to defray the expenses of the administration of the occupied territory to the same extent as the legitimate Government was so bound.

Art. 49. If, in addition to the taxes mentioned in the above Article, the occupant levies other money contributions in the occupied territory, this shall only be for the needs of the army or of the administration of the territory in question.

Art. 50. No general penalty, pecuniary or otherwise, shall be inflicted upon the population on account of the acts of individuals for which they cannot be regarded as jointly and severally responsible.

Art. 51. No contribution shall be collected except under a written order, and on the responsibility of a Commander-in-chief.

The collection of the said contribution shall only be effected as far as possible in accordance with the rules of assessment and incidence of the taxes in force.

For every contribution a receipt shall be given to the contributors.

Art. 52. Requisitions in kind and services shall not be demanded from municipalities or inhabitants except for the needs of the army of occupation. They shall be in proportion to the resources of the country, and of such a nature as not to involve the inhabitants in the obligation of taking part in military operations against their own country.

Such requisitions and services shall only be demanded on the authority of the commander in the locality occupied.

Contributions in kind shall as far as possible be paid for in cash; if not, a receipt shall be given, and the payment of the amount due shall be made as soon as possible.

Art. 53. An army of occupation can only take possession of cash, funds, and realizable securities which are strictly the property of the State, depots of arms, means of transportation, stores and supplies, and, generally, all movable property belonging to the State which may be used for military operations.

Art. 54. Submarine cables connecting occupied territory with a neutral territory shall not be seized or destroyed except in the case of absolute necessity. They must likewise be restored and compensation fixed when peace is made.

Art. 55. The occupying state shall be regarded only as administrator and usufructuary of public buildings, real estate, forests, and agricultural estates belonging to the hostile State, and situated in the occupied country. It must safeguard the capital of these properties, and administer them in accordance with rules of usufruct.

Art. 56. The property of municipalities, that of institutions dedicated to religion, charity and education, the arts and sciences, even when state property, shall be treated as private property.

All seizures of, destruction or wilful damage done to institutions of this character, historic monuments, works of art and science is forbidden, and should be made the subject of legal proceedings.²³

Declaration Prohibiting the Discharge of Projectiles and Explosives from Balloons

The Undersigned Plenipotentiaries of the Powers invited to the Second International Peace Conference at The Hague, duly authorized to that effect by their Governments, inspired by the sentiments which found expression in the Declaration of St. Petersburg of the 29th November (11th December), 1868, and being desirous of renewing the declaration of The Hague of the 29th July, 1899, which has now expired,

Declare:

The Contracting Powers agree to prohibit, for a period extending to the close of the Third Peace Conference, the discharge of projectiles and explosives from balloons or by other new methods of a similar nature.

The present Declaration is only binding on the Contracting Powers in case of war between two or more of them.

It shall cease to be binding from the time when, in a war between the Contracting Powers, one of the belligerents is joined by a non-Contracting Power.^{23a}

CONVENTION RESPECTING THE RIGHTS AND DUTIES OF NEUTRAL POWERS AND PERSONS IN WAR ON LAND

Chapter I—The Rights and Duties of Neutral Powers

Article 1. The territory of neutral Powers is inviolable.

²³ Senate Documents, 2d Session 61st Congress, 48, 2281.

^{23a} Senate Documents, 2d Session 61st Congress, 48, 2366.

Art. 2. Belligerents are forbidden to move troops or convoys of either munitions of war or supplies across the territory of a neutral Power.

Art. 3. Belligerents are likewise forbidden to:

- (a) Erect on the territory of a neutral Power a wireless telegraph station or other apparatus for the purpose of communicating with belligerent forces on land or sea;
- (b) Use any installation of this kind established by them before the war on the territory of a neutral Power for purely military purposes, and which has not been opened for the service of public messages.

Art. 4. Corps of combatants cannot be formed nor recruiting agencies opened on the territory of a neutral Power to assist the belligerents.

Art. 5. A neutral Power must not allow any of the acts referred to in Articles 2 to 4 to occur on its territory.

It is not called upon to punish acts in violation of its neutrality unless the said acts have been committed on its own territory.

Art. 6. The responsibility of a neutral Power is not engaged by the fact of persons crossing the frontier separately to offer their services to one of the belligerents.

Art. 7. A neutral Power is not called upon to prevent the export or transport, on behalf of one or other of the belligerents, of arms, munitions of war, or, in general, of anything which can be of use to an army or fleet.

Art. 8. A neutral Power is not called upon to forbid or restrict the use on behalf of the belligerents of telegraph or telephone cables or of wireless telegraphy apparatus belonging to it or to Companies or private individuals.

Art. 9. Every measure of restriction or prohibition taken by a neutral Power in regard to the matters referred to in Articles 7 and 8 must be impartially applied by it to both belligerents.

A neutral Power must see to the same obligation being observed by Companies or private individuals owning telegraph or telephone cables or wireless telegraphy apparatus.

Art. 10. The fact of a neutral Power resisting, even by force, attempts to violate its neutrality cannot be regarded as a hostile act.

Chapter II—Belligerents Interned and Wounded tended in Neutral Territory

Art. 11. A neutral Power which receives on its territory troops belonging to the belligerent armies shall intern them, as far as possible at a distance from the theater of war.

It may keep them in camps and even confine them in fortresses or in places set apart for this purpose.

It shall decide whether officers shall be left at liberty on giving their parole not to leave the neutral territory without permission.

Art. 12. In the absence of a special Convention to the contrary, the neutral Power shall supply the interned with the food, clothing, and relief required by humanity.

At the conclusion of peace the expenses caused by the internment shall be made good.

Art. 13. A neutral Power which receives escaped prisoners of war shall leave them at liberty. If it allows them to remain in its territory it may assign them a place of residence.

The same rule applies to prisoners of war brought by troops taking refuge in the territory of a neutral Power.

Art. 14. A neutral Power may authorize the passage into its territory of the sick and wounded belonging to the belligerent armies, on condition that the trains bringing them shall carry neither personnel or war material. In such a case, the neutral Power is bound to take whatever measures of safety and control are necessary for the purpose.

The sick or wounded brought under these conditions into neutral territory by one of the belligerents, and belonging to the hostile party, must be guarded by the neutral Power so as to ensure their not taking part again in the military operations. The same duty shall devolve on the neutral State with regard to wounded or sick of the other army who may be committed to its care.

Art. 15. The Geneva convention applies to sick and wounded interned in neutral territory.

Chapter III—Neutral Persons

Art. 16. The nationals of a State which is not taking part in the war are considered as neutrals.

Art. 17. A neutral cannot avail himself of his neutrality:

- (a) If he commits hostile acts against a belligerent;
- (b) If he commits acts in favor of a belligerent, particularly if he voluntarily enlists in the ranks of the armed forces of one of the parties.

In such a case, the neutral shall not be more severely treated by the belligerent as against whom he has abandoned his neutrality than a national of the other belligerent State could be for the same act.

Art. 18. The following acts shall not be considered as committed in favor of one belligerent in the sense of Article 17, letter (b);

(a) Supplies furnished or loans made to one of the belligerents, provided that the person who furnishes the supplies or who makes the loans lives neither in the territory of the other party nor in the territory occupied by him, and that the supplies do not come from these territories;

(b) Services rendered in matters of police or civil administration.

Art. 19. Railway material coming from the territory of neutral Powers, whether it be the property of the said Powers or of Companies or private persons, and recognizable as such, shall not be requisitioned or utilized

by a belligerent except where and to the extent that is absolutely necessary. It shall be sent back as soon as possible to the country of origin.

A neutral Power may likewise in case of necessity, retain and utilize to an equal extent material coming from the territory of the belligerent Power.

Compensation shall be paid by one party to the other in proportion to the material used, and to the period of usage.

Chapter V—Final Provisions

(Substantially the same as in the other Conventions.)²⁴

LAWS AND CUSTOMS OF WAR ON THE SEA

The second Hague Conference concluded conventions relative to the Status of Enemy Merchant-ships at the Outbreak of Hostilities; the Conversion of Merchant-ships into War-ships; the Laying of Automatic Submarine Contact Mines; Bombardment by naval forces in Time of War; the Adaptation to Naval War of the Principles of the Geneva Convention; relative to certain Restrictions with regard to the Exercise of the Right of Capture in Naval War; for the creation of an International Prize Court; and concerning the Rights and Duties of Neutral Powers in Naval War. Afterward at the International Naval Conference held at London a Declaration was signed by the plenipotentiaries of Germany, the United States, Austria-Hungary, France, Great Britain and The Netherlands concerning the Laws of Naval Warfare. When the great war broke out these conventions and agreements were not technically in force because not ratified by all the belligerents, but they stood as an expression of the representatives of the nations as to what rules ought to be observed. They related both to the operations, rights and duties of belligerents and neutrals on the open sea, which is the common property of all nations, and to the use of ports and interior waters. Taken together they form a fairly complete code for the regulation of naval warfare. They are all based on full recognition of the right of nations to wage war and to do so on the sea to which no nation or group of nations has exclusive right. The need of international agreement on these

²⁴ Senate Documents, 2d Session 61st Congress, 48, 2290.

subjects amounting to international legislation is obvious. The ever increasing interdependence of the people of one nation on those of others for supplies of food, manufacturers' supplies, fuel, and other necessities, most of which must be transported by water, renders every interference with the free use of the oceans a matter of vital concern to all. The right to carry on war all over the open sea being recognized, all nations are directly interested in the establishment of fixed and definite principles governing the rights and duties of belligerents and neutrals toward each other, and this was the purpose of these conventions. Though prepared with so much care and agreed upon with so much difficulty, they failed most miserably to accomplish the humane purposes of their authors, or to afford rules of safety for neutrals in the operation of their merchant ships. They have been even more flagrantly violated than the conventions relating to the conduct of war on land. Their most vital, essential and fundamental principles have been disregarded, not merely in particular exceptional instances, but habitually and continuously.

Merchant-ships in the ports of an enemy at the outbreak of war have generally been seized and used. So far as the published reports of the actions of belligerents go, it appears that little if any attention has been paid to the convention on that subject. It is too early, however, to give a full and reliable statement of the conduct of each government in this respect. Merchant-ships have been converted into warships without much if any complaint of the violation of the convention with reference to them. Very many losses both of life and of property have been sustained by neutrals from the laying of automatic contact submarine mines in violation of the convention relating to them. Loose mines have been encountered far away from the coast by neutral ships which have been destroyed by them. Undefended towns, villages, dwellings and other buildings on the coast of England were bombarded by German warships in the early period of the war, but the operations of the naval forces in land attacks have not been of conspicuous importance. The principles of the Geneva Convention applicable to naval warfare have

been repeatedly and most grossly violated. Hospital ships duly marked and bearing all the evidences of their character in accordance with the convention relating to them have been ruthlessly sunk, and the sick and wounded, the surgeons and nurses on them exposed to all the perils of the sea in open boats, or even intentionally fired upon, and killed, wounded or drowned. The convention relative to the right of capture in naval war deals only with a few points. The Hague Conference did not succeed in covering the field of naval warfare owing to diverse views in some respects. The duty of the captor to secure the ship's papers and the witnesses needed to prove the character of the vessel and cargo, and to take the ship into a port for adjudication, and all the procedure relating to such adjudication and the disposition of the proceeds of the confiscated property is very fully regulated by Title LIV of the Revised Statutes of the United States. In the Articles for the Government of the Navy it is provided: "If any person in the Navy strips off the clothes of, or pillages, or in any manner maltreats, any person taken on board a prize, he shall suffer such punishment as a court-martial may adjudge."²⁵ Wanton injuries to the captured crew are grounds for civil damages.²⁶ Captors are under obligations to show due respect to the persons and property of neutrals, and to bring in the prize in as good condition as possible.²⁷ These rules are the generally accepted law of all civilized countries and have been for more than a century. There were however various matters connected with naval warfare as to which there were differences in the customs and adjudications of the prize courts of different nations. Most if not all of these were considered and provided for in the Declaration of London. But this Declaration was never ratified by the parties to it and therefore has no binding effect as an agreement. It may also be said that all the Hague conventions contain a provision that—"The provisions of the present convention do not apply except between the contracting powers, and then only if all the

²⁵ Compiled Statutes of the United States 1918, §2977.

²⁶ *The Lively*, 15 Fed. Cas. No. 8403.

²⁷ *Del Col v. Arnold*, 3 Dallas (U.S.) 333.

belligerents are parties to the convention." The course of events in the war sustains von Moltke's assertion that belligerents will be influenced in their conduct by the circumstances with which they are surrounded rather than by any set of rules agreed to before the conflict. War having been declared, Germany deemed it of vital importance to crush France at once. The best road to France was through Belgium. Germany therefore asked permission to move her army through Belgium. This request was refused. Germany, France and Great Britain guaranteed the neutrality of Belgium in the general treaty of 1839,²⁸ and afterward by separate treaties. Under these treaties it was the plain duty of Belgium to remain neutral and prevent the passage of the German troops over her territory. To respect this neutrality and attack France only across the boundary of the two countries would cause delay and unfavorable military situations. Germany therefore disregarded her treaty and violated the most fundamental principles of good faith as well as of international law. This conduct shocked the moral sense of neutral nations. The slaughter of civilians who attempted to defend their homes and the destruction of Louvain and other Belgian towns, appeared as almost incredible exhibitions of savagery.

Great Britain entered the war to perform its treaty obligations and defend Belgium. Having the greatest navy in the world, but a very small army, it used the weapon it had. The most vulnerable place in Germany's armor seemed to be in its commerce and dependence on other nations for supplies. England therefore blockaded its ports. But a mere blockade of such ports as could be reached would not avail because the ports of neutral neighbors afforded ample facilities for shipments from and to foreign countries. To make the blockade effective it was necessary to blockade the ports of Holland, Denmark, Norway and Sweden. Article I of the Declaration of London reads— "A blockade must not extend beyond the ports and coasts belonging to or occupied by the enemy," and Article 18— "The blockading forces must not bar access to neutral ports or coasts." Great Britain did not bar all access

²⁸ Taylor Int. Law 119. Wheaton Hist. Pt. iv, 526

to the ports of the neutral nations, but did bar the entry of merchandise into such ports of such kinds and to such extent as it deemed best, without regard either to the rights or the wishes of such neutral nations. Ships and cargoes from America, then also neutral, were stopped and held as contraband.

The rules for determining what articles are to be deemed contraband have not been altogether clear or well settled. The Declaration of London defines three classes, absolute contraband, including arms, munitions and military supplies of all kinds, warships, their equipments and component parts, and implements and apparatus for the manufacture of munitions; conditional contraband:—foodstuffs, forage and grain, clothing, vehicles, vessels, railway material and rolling stock, balloons and flying machines, fuel, and other articles mentioned:—and articles not to be declared contraband including raw cotton, wool, silk, jute, flax, hemp, and yarns of the same, rubber, resins, gums, and lacs, hops, nitrates and phosphates for agricultural purposes and metallic ores. Full lists of each class are given respectively in Articles 22, 24 and 28 of the Declaration. Concerning the absolute contraband the definition accords with the generally accepted principles of international law as they have been understood for a long time. Under the provisions of Article 25 articles susceptible of use in war other than those enumerated may be added to the list of contraband on notice to the neutral powers. Prior to this Declaration Great Britain, the United States and Japan, following the classification of Grotius, made three classes as above,²⁹ but the nations of continental Europe made only two, contraband and free.³⁰ The rule with reference to conditional contraband before the Declaration of London was that it could only be seized if destined for the military or naval forces of the enemy.³¹ Article 33 of the Declaration reads—“Conditional contraband is liable to capture if it is shown to

²⁹ Grotius, b. 3, c. 1, § 5. Moore Int. L. Dig. § 1250. The Brig Juneau, 38 Ct Cl. 465.

³⁰ 40 Cvc 357. Moore Int. L. Dig. § 251.

³¹ The Commercen, 1 Wheat. 283.

be destined for the use of the armed forces or of a government department of the enemy state, unless in this latter case the circumstances show that the goods cannot in fact be used for the purposes of the war in progress." To warrant the seizure of conditional contraband the burden rests on the captor to show that it is destined for hostile military uses. Not only did Great Britain intercept conditional contraband destined for German ports which was not consigned to the authorities and which could not be shown to be intended for military uses, but it intercepted all supplies of food, clothing, manufacturers' raw material needed for the sustenance of the civilian population and the peaceful industries of all kinds of the Central Powers. Cotton, wool, and other fibres, expressly declared by the Declaration of London not to be contraband even when destined for enemy use, were intercepted and seized when consigned to neutral nations in such quantities as to indicate that their ultimate destination was Germany. The general policy of cutting off all commerce to and from the Central Powers by sea was rigorously pursued without regard to the principles of international law or the Declaration of London. Germany protested without avail. The United States protested against the interruption of its lawful commerce, as also did the neutral nations of Europe, without avail. Seizures extended to postal correspondence expressly declared to be inviolable by the Hague Convention relative to capture in naval warfare. The exigencies of war induced the British Government to disregard international law and treaty obligations owing to both belligerents and neutrals. The excuse for this attitude was that Germany was waging bloody war on Belgium and France in violation of its solemn obligations and with cruel violations of the laws of war on land. The purpose of Great Britain was to strangle Germany and thus prevent her warlike activities. The effects of the blockade were keenly and continually felt throughout Germany and Austria-Hungary. These belligerents had ample supplies for all their military and naval forces, but not for them and their civilian population also. Women, children and male non-combatants were the actual sufferers from the blockade.

Having failed to induce the British to observe international law, Germany resorted to retaliation. The British navy ruled the surface of the sea, but Germany had submarines. The British Isles were dependent on merchant ships for food and other necessary supplies. The submarines could not destroy the navy, but they could sink merchant ships. Owing to their construction and manner of operation it was not practicable for them to make prizes of surface vessels and send them into their ports for condemnation in accordance with the rules of international law, for to attempt to do so would have resulted in most cases in the recapture of the vessel with its prize crew by the British. Article 50 of the Declaration of London accords with the generally accepted principles of naval warfare and provides:— "Before the vessel is destroyed all persons on board must be placed in safety, and all the ship's papers and other documents which the parties interested consider relevant for the purpose of deciding on the validity of the capture must be taken on board the warship." Lack of space and accommodations for the passengers and crew of a large merchant-ship on a small submarine rendered it impracticable for submarines to provide for their safety in the manner contemplated by international law. It was impossible for a submarine to take along with it other vessels for the accommodation of the people on the merchant-ships. Its only effectual use was as a destroyer. All the great powers had submarines adapted to the same uses. As naval weapons they had been adopted by all great nations. The Germans reasoned that this weapon should be used in the way that it would accomplish the greatest results, that if they could destroy the ships and supplies on which England depended the war would be won, and that they were justified by the necessities of their situation in disregarding the laws of war, especially as against Great Britain which had itself violated them openly and flagrantly in so many particulars. Acting in accordance with this line of reasoning the Germans determined to make full use of their submarines, to destroy enemy ships, cargoes, crews, and such passengers as ventured to disregard their warning of danger.

On February 4, 1915, the German Admiralty announced that—

"The water around Great Britain and Ireland, including the whole of the English Channel, are declared a war zone from and after February 18, 1915.

"Every enemy merchant ship found in this war zone will be destroyed, even if it is impossible to avert dangers which threaten the crew and passengers.

"Also, neutral ships in the war zone are in danger, as in consequence of the misuse of neutral flags ordered by the British Government on January 31, and in view of the hazards of naval warfare, it cannot always be avoided that attacks meant for enemy ships endanger neutral ships.

"Shipping northward, around the Shetland Islands, in the eastern basin of the North Sea, and in a strip at least thirty nautical miles in breadth along the Dutch coast is endangered in the same way.³²

On May 1, 1915, The Gulflight, an American ship, flying a large American flag, bound from Port Arthur, Texas, to Rouen, France, with a cargo of oil and gasoline was torpedoed by a submarine off the Scilly Isles.³³

On the same day the Lusitania of the Cunard line sailed from New York with 2,104 persons on board, 187 of whom were Americans. Next to the published notice of the sailing of this vessel appeared the following: "Notice: Travelers intending to embark on the Atlantic voyage are reminded that a state of war exists between Germany and her allies and Great Britain and her allies; that the zone of war includes the waters adjacent to the British Isles; that, in accordance with formal notices given by the Imperial German Government, vessels flying the flag of Great Britain, or any of her allies, are liable to destruction in those waters and that travelers sailing in the war zone on ships of Great Britain or her allies do so at their own risk.

IMPERIAL GERMAN EMBASSY,
Washington, D. C., April 22, 1915."³⁴

On May 7, 1915, the Lusitania was torpedoed and sunk by a German submarine near Kinsale on the Irish coast with a loss

³² Literary Digest, No. 1295, 304.

³³ Id. No. 1308, 1135.

³⁴ Literary Digest, No. 1309, 1199.

of 1,052 lives, of whom 114 were Americans. Among the number were people of much prominence and the feeling of horror and indignation at this most barbarous and unwarranted act was widespread throughout America. Germany did not disavow responsibility for it, but claimed that the notification was all the passengers were entitled to. Operations of the submarines were not confined to enemy ships, but neutrals within the war zone were also ruthlessly sunk. On August 19, 1915, the *Arabic*, westbound with 423 persons on board, including 29 Americans, was sunk by a submarine fifty miles west of the place where the *Lusitania* went down. By September, 1915, it was reported that 98 British merchant ships and 95 neutral ships had been sunk. November 8, 1915, the *Ancona*, a passenger ship west bound, was sunk by an Austrian submarine off the coast of Sardinia. These gross and palpable violations of the rights of neutrals as well as of belligerents brought out diplomatic correspondence which resulted in an assurance from the German Government that the practice of indiscriminate sinking without warning would cease and that the following order had been given to the naval forces: "In accordance with the general principles of visit and search and the destruction of merchant vessels, recognized by international law, such vessels, both within and without the area declared a naval war zone, shall not be sunk without warning and without saving human lives unless the ship attempt to escape or offer resistance."

On March 24, 1916, notwithstanding the above assurance from the German Government, the *Sussex*, a passenger ship loaded with non-combatants, was sunk in the British Channel by a submarine. Germany had failed to gain the decisive military advantages hoped for at the beginning of the war. The pressure of the British blockade was causing great privation among the poor in Germany and Austria-Hungary. Trench warfare resulted in a deadlock on the western front. More decisive operations were demanded. Air raids were multiplied and the use of poisonous gases increased. These were clearly and unequivocally prohibited by the Hague con-

ventions,⁸⁵ but the views of government officials concerning military necessity overrode all law. The destruction of allied and neutral shipping went on, but subject to some observance of the law requiring notice before sinking and provision for the safety of passengers. The observance of these restrictions caused delay and danger to the submarine, and the German Government resolved on ruthless destruction without other than the general warning. On January 31, 1917 a note was handed to the Secretary of State of the United States in which it was said:

"After the attempts to come to an understanding with the Entente Powers have been answered by the latter with the announcement of an intensified continuation of the war, the Imperial Government—in order to serve the welfare of mankind in a higher sense and not to wrong its own people—is now compelled to continue the fight for existence again forced upon it, with the full employment of all the weapons which are at its disposal. . . . The now openly disclosed intention of the Entente Allies, gives back to Germany the freedom of action which she reserved in her note addressed to the Government of the United States on May 4, 1916.

"Germany will meet the illegal measures of her enemies by forcibly preventing, after February 1, 1917, in a zone around Great Britain, France, Italy, and in the eastern Mediterranean, all navigation, that of neutrals included, from and to England and from and to France, etc., etc. All ships met within that zone will be sunk.

"The Imperial Government is confident that this measure will result in a speedy termination of the war and in the restoration of peace, which the Government of the United States has so much at heart."⁸⁶

This announcement of a deliberate purpose to utterly disregard all the principles of international law relating to warfare on the sea, and all the principles of the Hague conventions and the Declaration of London on the subject, was followed by a declaration of war by the United States on April 6, 1917. From this time on the war was prosecuted with a savagery and disregard of international law and treaty obligations on land and sea, unprecedented on any large scale since the Thirty Years' War. The destruction wrought by the submarines was

⁸⁵ Declaration concerning the Discharge of Projectiles from Balloons. Senate Documents, 2d Session 61st Congress, 48, 2366. Customs of War on Land, Art. XXII, Id. 2285.

⁸⁶ Literary Digest, No. 1399, 322.

indeed appalling. The tonnage of British shipping sunk progressed year after year: in 1914, 300,000, in 1915, 1,050,000, in 1916, 1,550,000, in 1917, 4,000,000.⁸⁷ In 1914 there were in all the merchant fleets of all nations 30,500 sea going vessels of a total capacity of more than 70,000,000 deadweight tons. Of these an aggregate of 21,500,000 tons were lost or destroyed during the war, including very many belonging to neutrals.⁸⁸ Strictly accurate figures in detail cannot be given concerning these ships nor of the lives lost with them, but there were thousands of them.

Warfare in the air and attacks from the air, theretofore unknown, became a very important factor in the struggle. It commenced by Zeppelin raids dropping bombs indiscriminately on English, and soon after on French, towns. London and Paris with their vast multitudes of civilians were the principal objectives. The Zeppelins caused the death of many civilians and the destruction of much property, but were themselves destroyed. Then followed the newer air crafts, invented by both sides, and battles in the air; bombing operations by both parties to the conflict and ultimate superiority in the air of the Allies. This weapon had been finally turned against the Central Powers. Not content with the efficiency of the highly perfected guns and munitions ordinarily used in wars, the Germans resorted to the use of poisonous gases and liquid fire, at first with great effect. The allied powers met their gas with other even more destructive gas. The submarine was confronted with the deadly depth bomb, filled with an explosive far more powerful than had ever before been used, making its destruction when discovered submerged certain and absolute, without hope of escape for any of its crew. The red cross on hospitals and ambulances served rather to designate a target for the Germans than as a protection of the sick, wounded, nurses and surgeons. Thus at the last end of the war both parties violated the most fundamental rules of international law designed to mitigate the savagery of war on sea and land, each party claiming justification from the conduct

⁸⁷ Literary Digest, No. 146c, 21.

⁸⁸ National Geographic Magazine, Vol. 34, 179.

of the other. All this happened soon after most unusual efforts in all countries to prevent war by offering peaceful alternatives and to reduce its evil consequences to a minimum when it did come.

The lessons to be drawn from all the horrible experiences of this greatest of all wars are plain and unmistakable. War is essentially savage in its nature, and no rules designed to civilize it can by any possibility change its nature. The effort must be to provide ample means for the just settlement of international controversies without resort to arms. The nations must each and all be required to abdicate that attribute of sovereignty which allows any nation to wage war when and as it will. It cannot wage war under existing world conditions without doing injury to the whole family of nations. War between any two is a matter of concern to all others who have dealings with them. This is true to a far greater degree than that peace between the members of a state is a matter of concern to all its citizens. The state may have many million citizens and a combat between two of them be known to but a very few, but there are only about fifty nations, great and small, and war between any two of them is sure to affect some or all the others. The day of remoteness and isolation is past. Each great nation is in close and daily contact with every other great nation, and is vitally interested in the preservation of its peace and the promotion of its welfare. The moral forces of the world have determined this great war, and have overthrown the greatest military organization that was ever built up. Ruthless warfare has resulted in the overthrow of those who resorted to it. The awful destruction of life, the fearful sufferings from wounds, exposure, famine, and the ruthlessness of war have made clear as never before the imperative need of a sane combination of all the nations for the preservation of the peace of each and all.

The Hague conventions above referred to and the Declaration of London are given below in full. They are still worthy of careful study. Many of their provisions have been generally observed, but the good resulting from them appears of very minor importance in comparison with the horrors which

have resulted from their violation. All these combined are small when measured by the misery and destruction caused by what are termed the legitimate activities of the war. It is war itself that deserves the highest condemnation.

CONVENTION RELATIVE TO THE STATUS OF ENEMY MERCHANT SHIPS
AT THE OUTBREAK OF HOSTILITIES

Article 1. When a merchant ship belonging to one of the belligerent Powers is at the commencement of hostilities in an enemy port, it is desirable that it should be allowed to depart freely, either immediately or after a reasonable number of days of grace, and to proceed, after being furnished with a pass, direct to its port of destination or any other port indicated.

The same rule should apply in the case of a ship which has left its port of departure before the commencement of the war and entered a port belonging to the enemy while still ignorant that hostilities had broken out.

Art. 2. A merchant ship unable, owing to circumstances of *force majeure*, to leave the enemy port, or which was not allowed to leave, cannot be confiscated.

The belligerent may only detain it, without payment of compensation, but subject to the obligation of restoring it after the war, or requisition it on payment of compensation.

Art. 3. Enemy merchant ships which left their last port of departure before the commencement of the war, and are encountered on the high seas while still ignorant of the outbreak of hostilities cannot be confiscated. They are only liable to detention on the understanding that they shall be restored after the war without compensation, or to be requisitioned, or even destroyed, on payment of compensation, but in such case provision must be made for the safety of the persons on board as well as the security of the ship's papers.

After touching at a port in their own country or a neutral port, these ships are subject to the laws and customs of maritime war.

Art. 4. Enemy cargo on board the vessels referred to in Articles 1 and 2 is likewise liable to be detained and restored after the termination of the war without payment of compensation, or to be requisitioned on payment of compensation, with or without the ship.

The same rule applies in the case of cargo on board the vessels referred to in Article 3.

Art. 5. The present convention does not affect merchant ships whose build shows that they are intended for conversion into war ships.

Art. 6. The provisions of the present convention do not apply except between contracting Powers, and then only if all the belligerents are parties to the convention.³⁹

(Articles 7 to 11 inclusive contain the usual final provisions.)

³⁹ Bridgman, First Book of World Law, 115.

CONVENTION RELATIVE TO THE CONVERSION OF MERCHANT SHIPS
INTO WARSHIPS

Article 1. A merchant ship converted into a warship cannot have the rights and duties accruing to such vessels unless it is placed under the direct authority, immediate control, and responsibility of the Power whose flag it flies.

Art. 2. Merchant ships converted into warships must bear the external marks which distinguish the warships of their nationality.

Art. 3. The commander must be in the service of the state and duly commissioned by the competent authorities. His name must figure on the list of the officers of the fighting fleet.

Art. 4. The crew must be subject to military discipline.

Art. 5. Every merchant ship converted into a warship must observe in its operations the laws and customs of war.

Art. 6. A belligerent who converts a merchant ship into a warship must, as soon as possible, announce such conversion in the list of warships.

Art. 7. The provisions of the present convention do not apply except between contracting Powers, and then only if all the belligerents are parties to the convention.⁴⁰

(Articles 8 to 12 inclusive contain the usual final provisions.)

THE LAYING OF AUTOMATIC SUBMARINE CONTACT MINES

New inventions of destructive devices designed for use in war, which may injure neutrals as well as belligerents call for international law regulating their use. Automatic submarine contact mines concealed from view and charged with explosives capable of destroying any ship striking one of them, can only be avoided by definite knowledge of their location. If allowed to float with tides and currents of the sea they become a menace to all shipping. They are designed for either offensive or defensive use, to aid in blockading a port of the enemy or as a protection to the ports of the power laying them. Their use is of such recent origin that no rules of international law relating to their use had been developed before the second Hague Conference. To mitigate the many great dangers resulting from their use the following convention was signed and may fairly be said to afford all the international law there is on the subject.

⁴⁰ Bridgman, *First Book of World Law*, 117.

CONVENTION RELATIVE TO THE LAYING OF AUTOMATIC SUBMARINE
CONTACT MINES

Article 1. It is forbidden:

1. To lay unanchored contact mines, except when they are so constructed as to become harmless one hour at most after the person who laid them ceases to control them;

2. To lay anchored automatic contact mines which do not become harmless as soon as they have broken loose from their moorings;

3. To use torpedoes which do not become harmless when they have missed their mark.

Art. 2. It is forbidden to lay automatic contact mines off the coast and ports of the enemy, with the sole object of intercepting commercial shipping.

Art. 3. When anchored contact mines are employed, every possible precaution must be taken for the security of peaceful shipping.

The belligerents undertake to do their utmost to render these mines harmless within a limited time, and, should they cease to be under surveillance, to notify the danger zones as soon as military exigencies permit, by a notice addressed to ship owners, which must also be communicated to the Governments through the diplomatic channel.

Art. 4. Neutral Powers which lay automatic contact mines off their coasts must observe the same rules and take the same precautions as are imposed on belligerents.

The neutral Powers must inform ship owners, by a notice issued in advance, where automatic contact mines have been laid. This notice must be communicated at once to the Governments through the diplomatic channel.

Art. 5. At the close of the war, the Contracting Powers undertake to do their utmost to remove the mines which they have laid, each Power removing its own mines.

As regards anchored automatic contact mines laid by one of the belligerents off the coast of the other, their position must be notified to the other party by the Power which laid them, and each Power must proceed with the least possible delay to remove the mines in its own waters.

Art. 6. The Contracting Powers which do not at present own perfected mines of the pattern contemplated in the present Convention, and which, consequently, could not at present carry out the rules laid down in Articles 1 and 2, undertake to convert the *matériel* of their mines as soon as possible, so as to bring it into conformity with the foregoing requirements.

Art. 7. The provisions of the present Convention do not apply except between Contracting Powers, and then only if all the belligerents are parties to the Convention.

(Usual final provisions. Convention to remain in force seven years, and reopened within six months thereafter.)⁴¹

⁴¹ Senate Documents, 2d Session 61st Congress, 48, 2304.

CONVENTION RESPECTING BOMBARDMENT BY NAVAL FORCES
IN TIME OF WAR

Chapter I—The Bombardment of Undefended Ports, Towns, Villages,
Dwellings, or Buildings

Article 1. The bombardment by naval forces of undefended ports, towns, villages, dwellings, or buildings is forbidden.

A place cannot be bombarded solely because automatic submarine mines are anchored off the harbour.

Art. 2. Military works, military or naval establishments, depots of arms of war *matériel*, workshops or plants which could be utilized for the needs of the hostile fleet or army, and the ships of war in the harbour, are not, however, included in this prohibition. The commander of a naval force may destroy them with artillery, after a summons followed by a reasonable time of waiting, if all other means are impossible, and when the local authorities have not themselves destroyed them within the time fixed.

He incurs no responsibility for any unavoidable damage which may be caused by a bombardment under such circumstances.

If for military reasons immediate action is necessary, and no delay can be allowed the enemy, it is understood that the prohibition to bombard the undefended town holds good, as in the case given in paragraph 1, and that the commander shall take all due measures in order that the town may suffer as little harm as possible.

Art. 3. After due notice has been given, the bombardment of undefended ports, towns, villages, dwellings, or buildings may be commenced, if the local authorities, after a formal summons has been made to them, decline to comply with requisitions for provisions or supplies necessary for the immediate use of the naval force before the place in question.

These requisitions shall be in proportion to the resources of the place. They shall only be demanded in the name of the commander of the said naval force, and they shall, as far as possible, be paid for in cash; if not, they shall be evidenced by receipts.

Art. 4. Undefended ports, towns, villages, dwellings, or buildings may not be bombarded on account of failure to pay money contributions.

Chapter II—General Provisions

Art. 5. In bombardments by naval forces all the necessary measures must be taken by the commander to spare as far as possible sacred edifices, buildings used for artistic, scientific, or charitable purposes, historic monuments, hospitals, and places where the sick or wounded are collected, on the understanding that they are not used at the time for military purposes.

It is the duty of the inhabitants to indicate such monuments, edifices, or places by visible signs, which shall consist of large stiff rectangular panels divided diagonally into two coloured triangular portions, the upper portion black, the lower portion white.

Art. 6. If the military situation permits, the commander of the attacking force, before commencing the bombardment, must do his utmost to warn the authorities.

Art. 7. A town or place, even when taken by storm, may not be pillaged.

Chapter III—Final Provisions

(Articles 8 to 13 contain the usual final provisions of the Hague Conventions.)⁴²

CONVENTION FOR THE ADAPTATION TO NAVAL WAR OF THE PRINCIPLES OF THE GENEVA CONVENTION

Article 1. Military hospital-ships, that is to say, ships constructed or assigned by States specially and solely with a view to assisting the wounded, sick, and shipwrecked, the names of which have been communicated to the belligerent Powers at the commencement or during the course of hostilities, and in any case before they are employed, shall be respected, and cannot be captured while hostilities last.

These ships, moreover, are not on the same footing as warships as regards their stay in a neutral port.

Art. 2. Hospital-ships, equipped wholly or in part at the expense of private individuals or officially recognized relief societies, shall be likewise respected and exempt from capture, if the belligerent Power to whom they belong has given them an official commission and has notified their names to the hostile Power at the commencement of or during the hostilities, and in any case before they are employed.

These ships must be provided with a certificate from the competent authorities declaring that the vessels have been under their control while fitting out and on final departure.

Art. 3. Hospital-ships, equipped wholly or in part at the expense of private individuals or officially recognized societies of neutral countries, shall be respected and exempt from capture, on condition that they are placed under the control of one of the belligerents, with the previous consent of their own Government and with the authorization of the belligerent himself, and that the latter has notified their name to his adversary at the commencement of or during hostilities, and in any case, before they are employed.

Art. 4. The ships mentioned in Articles 1, 2 and 3, shall afford relief and assistance to the wounded, sick, and shipwrecked of the belligerents without distinction of nationality.

The Governments undertake not to use these ships for any military purpose.

These vessels must in no wise hamper the movements of the combatants. During and after the engagement they will act at their own risk and peril.

⁴² Senate Documents, 3d Session 61st Congress, 48, 2321.

The belligerents shall have the right to control and search them; they can refuse to help them, order them off, make them take a certain course, and put a Commissioner on board; they can even detain them, if important circumstances require it.

As far as possible, the belligerents shall enter in the log of the hospital-ships the orders which they give them.

Art. 5. Military hospital-ships shall be designated by being painted white outside with a horizontal band of green about a metre and a half in breadth.

The ships mentioned in Articles 2 and 3 shall be designated by being painted white outside with a horizontal band of red about a metre and a half in breadth.

The boats of the ships above mentioned, as also small craft which may be used for hospital work, shall be distinguished by similar painting.

All hospital-ships shall make themselves known by hoisting, with their national flag, the white flag with a red cross provided by the Geneva Convention, and further, if they belong to a neutral State, by flying at the mainmast the national flag of the belligerent under whose control they are placed.

Hospital-ships which, in the terms of Article 4, are detained by the enemy, must haul down the national flag of the belligerent to whom they belong.

The ships and boats above mentioned which wish to ensure by night the freedom from interference to which they are entitled, must, subject to the assent of the belligerent they are accompanying, take the necessary measures to render their special painting sufficiently plain.

Art. 6. The distinguishing signs referred to in Article 5 can only be used, whether in time of peace or war, for protecting or indicating the ships therein mentioned.

Art. 7. In the case of a fight on board a warship, the sick-wards shall be respected and spared as far as possible.

The said sick-wards and the *matériel* belonging to them remain subject to the laws of war; they cannot, however, be used for any purpose other than that for which they were originally intended, so long as they are required for the sick and wounded.

The commander, however, into whose power they have fallen may apply them to other purposes, if the military situation requires it, after seeing that the sick and wounded on board are properly provided for.

Art. 8. Hospital-ships and sick-wards of vessels are no longer entitled to protection if they are employed for the purpose of injuring the enemy.

The fact of the staff of the said ships and sick-wards being armed for maintaining order and for defending the sick and wounded, and the presence of wireless telegraphy apparatus on board, is not a sufficient reason for withdrawing protection.

Art. 9. Belligerents may appeal to the charity of the commanders of

neutral merchant-ships, yachts, or boats to take on board and tend the sick and wounded.

Vessels responding to this appeal, and also vessels which have of their own accord rescued sick, wounded, or shipwrecked men, shall enjoy special protection and certain immunities. In no case can they be captured for having such persons on board, but, apart from special undertakings that have been made to them, they remain liable to capture for any violations of neutrality they may have committed.

Art. 10. The religious, medical, and hospital staff of any captured ship is inviolable, and its members cannot be made prisoners of war. On leaving the ship they take away with them the objects and surgical instruments which are their own private property.

This staff shall continue to discharge its duties while necessary, and can afterwards leave, when the Commander-in-chief considers it possible.

The belligerents must guarantee to said staff, when it has fallen into their hands, the same allowances and pay which are given to the staff of corresponding rank in their own army.

Art. 11. Sailors and soldiers on board, when sick or wounded, as well as other persons officially attached to fleets or armies, whatever their nationality, shall be respected and tended by the captors.

Art. 12. Any warship belonging to a belligerent may demand that sick, wounded or shipwrecked men on board military hospital-ships, hospital-ships belonging to relief societies or to private individuals, merchant-ships, yachts, or boats, whatever the nationality of these vessels, should be handed over.

Art. 13. If sick, wounded, or shipwrecked persons are taken on board a neutral warship, every possible precaution must be taken that they do not again take part in the operations of the war.

Art. 14. The shipwrecked, wounded, or sick of one of the belligerents who fall into the power of the other belligerent are prisoners of war. The captor must decide, according to circumstances, whether to keep them, send them to a port of his own country, to a neutral port, or even to an enemy port. In this last case, prisoners thus repatriated cannot serve again while the war lasts.

Art. 15. The shipwrecked, sick, or wounded, who are landed at a neutral port with the consent of the local authorities, must, unless an arrangement is made to the contrary between the neutral State and the belligerent States, be guarded by the neutral State so as to prevent them again taking part in the operations of the war.

The expenses of tending them in hospital and internment shall be borne by the State to which the shipwrecked, sick, or wounded persons belong.

Art. 16. After every engagement, the two belligerents, so far as military interests permit, shall take steps to look for the shipwrecked, sick, and wounded, and to protect them, as well as the dead, against pillage and ill treatment.

They shall see that the burial, whether by land or sea, or cremation of the dead shall be preceded by a careful examination of the corpse.

Art. 17. Every belligerent shall send, as early as possible, to the authorities of their country, navy, or army the military marks or documents of identity found on the dead and the description of the sick and wounded picked up by him.

The belligerents shall keep each other informed as to the internments and transfers as well as to the admissions into hospital and deaths which have occurred among the sick and wounded in their hands. They shall collect all the objects of personal use, valuables, letters, etc., which are found in the captured ships, or which have been left by the sick or wounded who died in hospital, in order to have them forwarded to the persons concerned by the authorities of their own country.

Art. 18. The provisions of the present Convention do not apply except as between Contracting Powers, and then only if all the belligerents are parties to the Convention.

Art. 19. The Commanders-in-chief of the belligerent fleets must see that the above Articles are properly carried out; they will also have to see to cases not covered thereby, in accordance to the instructions of their respective Governments and in conformity with the general principles of the present Convention.

Art. 20. The Signatory Powers shall take the necessary measures for bringing the provisions of the present Convention to the knowledge of their naval forces, and especially to the members entitled thereunder to immunity, and for making them known to the public.

Art. 21. The Signatory Powers likewise undertake to enact or to propose to their Legislatures, if their criminal laws are inadequate, the measures necessary for checking in time of war individual acts of pillage and ill-treatment in respect to the sick and wounded in the fleet, as well as for punishing, as an unjustifiable adoption of naval or military marks, the unauthorized use of the distinctive marks mentioned in Article 5 by vessels not protected by the present Convention.

They will communicate to each other, through the Netherland Government, the enactments for preventing such acts at the latest within five years of the ratification of the present Convention.

Art. 22. In the case of operations of war between land and sea forces of belligerents, the provisions of the present Convention do not apply except between the forces actually on board ship.⁴⁸

(Articles 23 to 28 contain the usual final provisions.)

CONVENTION RELATIVE TO RIGHT OF CAPTURE IN NAVAL WAR

Chapter I—Postal Correspondence

Article 1. The postal correspondence of neutrals or belligerents, whatever its official or private character may be, found on the high seas on

⁴⁸ Senate Documents, 2d Session 61st Congress, 48, 2333.

board a neutral or enemy ship, is inviolable. If the ship is detained, the correspondence is forwarded by the captor with the least possible delay.

The provisions of the preceding paragraph do not apply, in case of violation of blockade, to correspondence destined for or proceeding from a blockaded port.

Art. 2. The inviolability of postal correspondence does not exempt a neutral mail-ship from the laws and customs of maritime war as to neutral merchant-ships in general. The ship, however, may not be searched except when absolutely necessary, and then only with as much consideration and expedition as possible.

Chapter II—The Exemption from Capture of Certain Vessels

Art. 3. Vessels used exclusively for fishing along the coast or small boats employed in local trade are exempt from capture, as well as their appliances, rigging, tackle, and cargo.

They cease to be exempt as soon as they take any part whatever in hostilities.

The Contracting Powers agree not to take advantage of the harmless character of the said vessels in order to use them for military purposes while preserving their peaceful appearance.

Art. 4. Vessels charged with religious, scientific, or philanthropic missions are likewise exempt from capture.

Chapter III—Regulations regarding the Crews of Enemy Merchant-ships Captured by a Belligerent

Art. 5. When an enemy merchant-ship is captured by a belligerent, such of its crew as are nationals of a neutral State are not made prisoners of war.

The same rule applies in case of the captain and officers likewise nationals of a neutral State, if they promise formally in writing not to serve on an enemy ship while the war lasts.

Art. 6. The captain, officers, and members of the crew, when nationals of the enemy State are not made prisoners of war, on condition that they make a formal promise in writing, not to undertake, while hostilities last, any service connected with the operations of the war.

Art. 7. The names of the persons retaining their liberty under the conditions laid down in Article 5, paragraph 2, and in Article 6, are notified by the belligerent captor to the other belligerent. The latter is forbidden knowingly to employ the said persons.

Art. 8. The provisions of the three preceding articles do not apply to ships taking part in the hostilities.

(Chapter IV contains the usual Final Provisions.)⁴⁴

⁴⁴ Senate Documents, 2d Session 61st Congress, 48, 2347.

CONVENTION CONCERNING THE RIGHTS AND DUTIES OF NEUTRAL
POWERS IN NAVAL WAR

Article 1. Belligerents are bound to respect the sovereign rights of neutral Powers and to abstain, in neutral territory or in neutral waters, from any act which would, if knowingly permitted by any Power, constitute a violation of neutrality.

Art. 2. Any act of hostility, including capture and the exercise of the right of search, committed by belligerent warships in the territorial waters of a neutral Power, constitute a violation of neutrality and is strictly forbidden.

Art. 3. When a ship has been captured in the territorial waters of a neutral Power, this Power must employ, if the prize is still within its jurisdiction, the means at its disposal to release the prize with its officers and crew, and to intern the prize crew.

If the prize is not in the jurisdiction of the neutral Power, the captor Government, on the demand of that Power, must liberate the prize with its officers and crew.

Art. 4. A Prize Court cannot be set up by a belligerent on neutral territory or on a vessel in neutral waters.

Art. 5. Belligerents are forbidden to use neutral ports and waters as a base of naval operations against their adversaries, and in particular to erect wireless telegraphy stations or any apparatus for the purpose of communicating with the belligerent forces on land or sea.

Art. 6. The supply, in any manner, directly or indirectly, by a neutral Power to a belligerent Power, of warships, ammunition, or war material of any kind whatever, is forbidden.

Art. 7. A neutral Power is not bound to prevent the export or transit, for the use of either belligerent, of arms, ammunitions, or, in general, of anything which could be of use to an army or fleet.

Art. 8. A neutral Government is bound to employ the means at its disposal to prevent the fitting out or arming of any vessel within its jurisdiction which it has reason to believe is intended to cruise, or engage in hostile operations, against a Power with which that Government is at peace. It is also bound to display the same vigilance to prevent the departure from its jurisdiction of any vessel intended to cruise, or engage in hostile operations, which have been adapted entirely or partly within said jurisdiction for use in war.

Art. 9. A neutral Power must apply impartially to the two belligerents the conditions, restrictions, or prohibitions made by it in regard to the admission into its ports, roadsteads, or territorial waters, of belligerent warships or of their prizes.

Nevertheless, a neutral Power may forbid a belligerent vessel which has failed to conform to the orders and regulations made by it, or which has violated neutrality, to enter its ports or roadsteads.

Art. 10. The neutrality of a Power is not affected by the mere passage

through its territorial waters of warships or prizes belonging to belligerents.

Art. 11. A neutral Power may allow belligerent warships to employ its licensed pilots.

Art. 12. In the absence of special provisions to the contrary in the legislation of a neutral Power, belligerent warships are not permitted to remain in the ports, roadsteads, or territorial waters of the said Power for more than twenty-four hours, except in cases covered by the present Convention.

Art. 13. If a Power which has been informed of the outbreak of hostilities learns that a belligerent warship is in one of its ports or roadsteads, or in its territorial waters, it must notify the said ship to depart within twenty-four hours or within the time prescribed by local regulations.

Art. 14. A belligerent warship may not prolong its stay in a neutral port beyond the permissible time except on account of damage or stress of weather. It must depart as soon as the cause of delay is at an end.

The regulations as to the question of the length of time which these vessels may remain in neutral ports, roadsteads, or waters, do not apply to warships devoted exclusively to religious, scientific, or philanthropic purposes.

Art. 15. In the absence of a special provision to the contrary in the legislation of the neutral Power, the maximum number of warships belonging to a belligerent which may be in one of the ports or roadsteads of that Power simultaneously shall be three.

Art. 16. When warships belonging to both belligerents are present simultaneously in a neutral port or roadstead, a period of not less than twenty-four hours must elapse between the departure of the ship belonging to one belligerent and the departure of the ship belonging to the other.

The order of departure is determined by the order of arrival, unless the ship which arrived first is so circumstanced that an extension of its stay is permissible.

A belligerent warship may not leave a neutral port or roadstead until twenty-four hours after the departure of a merchant-ship flying the flag of its adversary.

Art. 17. In neutral ports and roadsteads belligerent warships may carry out such repairs as are absolutely necessary to render them seaworthy, and may not add in any manner whatsoever to their fighting force. The local authorities of the neutral Power shall decide what repairs are necessary, and these must be carried out with the least possible delay.

Art. 18. Belligerent warships may not make use of neutral ports, roadsteads, or territorial waters for replenishing or increasing their supplies of war material or their armament, or for completing their crews.

Art. 19. Belligerent warships may only revictual in neutral ports or roadsteads to bring up their supplies to the peace standard.

Similarly these vessels may only ship sufficient fuel to enable them to reach the nearest port in their own country. They may, on the other hand, fill up their bunkers built to carry fuel, when in neutral countries which have adopted this method of determining the amount of fuel to be supplied.

If, in accordance with the law of the neutral Power, the ships are not supplied with coal within twenty-four hours of their arrival, the permissible duration of the stay is extended by twenty-four hours.

Art. 20. Belligerent warships which have shipped fuel in a port belonging to a neutral Power may not within the succeeding three months replenish their supply in a port of the same Power.

Art. 21. A prize may only be brought into a neutral port on account of unseaworthiness, stress of weather, or want of fuel or provisions.

It must leave as soon as the circumstances which justified its entry are at an end. If it does not, the neutral Power must order it to leave at once; should it fail to obey, the neutral Power must employ the means at its disposal to release it with its officers and crew and to intern the prize crew.

Art. 22. A neutral Power must, similarly, release a prize brought into one of its ports under circumstances other than those referred to in Article 21.

Art. 23. A neutral Power may allow prizes to enter its ports and roadsteads, whether under convoy or not, when they are brought there to be sequestered pending the decision of a Prize Court. It may have the prize taken to another of its ports.

If the prize is convoyed by a warship, the prize crew may go on board the convoying ship.

If the prize is not under convoy, the prize crew are left at liberty.

(Article 23 was not adhered to by the United States.)

Art. 24. If, notwithstanding the notification of the neutral Power, a belligerent ship of war does not leave a port where it is not entitled to remain, the neutral Power is entitled to take such measures as it considers necessary to render the ship incapable of taking the sea during the war, and the commanding officer of the ship must facilitate the execution of such measures.

When a belligerent ship is detained by a neutral Power, the officers and crew are likewise detained.

The officers and crew thus detained may be left in the ship or kept either on another vessel or on land, and may be subjected to the measures of restriction which it may appear necessary to impose upon them. A sufficient number of men for looking after the vessel must, however, be always left on board.

The officers may be left at liberty on giving their word not to quit the neutral territory without permission.

Art. 25. A neutral Power is bound to exercise such surveillance as the means at its disposal allow to prevent any violation of the provisions of the above Articles occurring in its ports or roadsteads or in its waters.

Art. 26. The exercise by a neutral Power of the rights laid down in the present Convention can under no circumstances be considered as an unfriendly act by one or other belligerent who has accepted the Article relating thereto.

Art. 27. The Contracting Powers shall communicate to each other in due course all Laws, Proclamations, and other enactments regulating in their respective countries the status of belligerent warships in their ports and waters, by means of a communication addressed to the Government of the Netherlands, and forwarded immediately by that Government to the other Contracting Powers.

Art. 28. The provisions of the present Convention do not apply except to the Contracting Powers, and then only if all the belligerents are parties to the Convention.

(Articles 29 to 33 contain the usual final provisions.)⁴⁵

DECLARATION CONCERNING THE LAWS OF NAVAL WARFARE

Preliminary Provision

The Signatory Powers are agreed that the rules contained in the following Chapters correspond in substance with the generally recognized principles of international law.

Chapter I—Blockade in Time of War

Article 1. A blockade must not extend beyond the ports and coasts belonging to or occupied by the enemy.

Art. 2. In accordance with the Declaration of Paris of 1856, a blockade, in order to be binding, must be effective,—that is to say, it must be maintained by a force sufficient really to prevent access to the enemy coastline.

Art. 3. The question whether a blockade is effective is a question of fact.

Art. 4. A blockade is not regarded as raised if the blockading force is temporarily withdrawn on account of stress of weather.

Art. 5. A blockade must be applied impartially to the ships of all nations.

Art. 6. The Commander of a blockading force may give permission to a warship to enter, and subsequently to leave, a blockaded port.

Art. 7. In circumstances of distress, acknowledged by an officer of the blockading force, a neutral vessel may enter a place under blockade and subsequently leave it, provided that she has neither discharged nor shipped any cargo there.

Art. 8. A blockade, in order to be binding, must be declared in accordance with Article 9, and notified in accordance with Article 11 and 16.

Art. 9. A declaration of blockade is made either by the blockading Power or by the naval authorities acting in its name.

It specifies:

⁴⁵ Senate Documents, 2d Session 61st Congress, 48, 2352.

- (1) The date when the blockade begins;
- (2) The geographical limits of the coastline under blockade;
- (3) The period within which neutral vessels may come out.

Art. 10. If the operations of the blockading Power, or of the naval authorities acting in its name, do not tally with the particulars, which in accordance with Articles 9 (1) and (2), must be inserted in the declaration of blockade, the declaration is void, and a new declaration is necessary in order to make the blockade operative.

Art. 11. A declaration of blockade is notified:

(1) To neutral Powers by the blockading Power by means of a communication addressed to the Government direct, or to their representatives accredited to it;

(2) To the local authorities, by the officer commanding the blockading force. The local authorities will, in turn, inform the foreign consular officers at the port or on the coastline under blockade as soon as possible.

Art. 12. The rules as to declaration and notification of blockade apply to cases where the limits of a blockade are extended, or where a blockade is reestablished after being raised.

Art. 13. The voluntary raising of a blockade, as also any restriction in the limits of a blockade, must be notified in the manner prescribed by Article 11.

Art. 14. The liability of a neutral vessel to capture for breach of blockade is contingent on her knowledge, actual or presumptive of the blockade.

Art. 15. Failing proof to the contrary, knowledge of the blockade is presumed if the vessel left a neutral port subsequently to the notification of the blockade to the Power to which such port belongs, provided that such notification was made in sufficient time.

Art. 16. If a vessel approaching a blockaded port has no knowledge, actual or presumptive, of the blockade, the notification must be made to the vessel itself by an officer of one of the ships of the blockading force. This notification should be entered in the vessel's log-book, and must state the day and hour, and the geographical position of the vessel at the time.

If, through the negligence of the officer commanding the blockading force no declaration of blockade has been notified to the local authorities, or if in the declaration, as notified, no period has been mentioned within which neutral vessels may come out, a neutral vessel coming out of the blockaded port must be allowed to pass free.

Art. 17. Neutral vessels may not be captured for breach of blockade except within the area of operations of the warships detailed to render the blockade effective.

Art. 18. The blockading forces must not bar access to neutral ports or coasts.

Art. 19. Whatever may be the ulterior destination of a vessel or of her

cargo, she cannot be captured for breach of a blockade, if, at the moment, she is on her way to a non-blockaded port.

Art. 20. A vessel which has broken blockade outwards, or which has attempted to break blockade inwards, is liable to capture so long as she is pursued by a ship of the blockading force. If the pursuit is abandoned, or if the blockade is raised, her capture can no longer be effected.

Art. 21. A vessel found guilty of breach of blockade is liable to condemnation. The cargo is also condemned, unless it is proved that at the time of the shipment of the goods the shipper neither knew nor could have known of the intention to break the blockade.

Chapter II—Contraband of War

Art. 22. The following articles may, without notice, be treated as contraband of war, under the name of absolute contraband:

(1) Arms of all kinds, including arms for sporting purposes, and their distinctive component parts.

(2) Projectiles, charges, and cartridges of all kinds, and their distinctive component parts.

(3) Powder and explosives specially prepared for use in war.

(4) Gun-mountings, limber boxes, limbers, military wagons, field forges, and their distinctive component parts.

(5) Clothing and equipment of a distinctively military character.

(6) All kinds of harness of a distinctively military character.

(7) Saddle, draught, and pack animals suitable for use in war.

(8) Articles of camp equipment, and their distinctive compound parts.

(9) Armour plates.

(10) Warships, including boats, and their distinctive component parts of such a nature that they can only be used on a vessel of war.

(11) Implements and apparatus designed exclusively for the manufacture of munitions of war, for the manufacture of repair of arms, or war material for use on land or sea.

Art. 23. Articles exclusively used for war may be added to the list of absolute contraband by a declaration, which must be notified.

Such notification must be addressed to the Governments of other Powers, or to their representatives accredited to the power making the declaration. A notification made after the outbreak of hostilities is addressed only to neutral Powers.

Art. 24. The following articles, susceptible of use in war as well as for purposes of peace, may, without notice, be treated as contraband of war, under the name of conditional contraband:

(1) Foodstuffs.

(2) Forage and grain, suitable for feeding animals.

(3) Clothing, fabrics for clothing, and boots and shoes, suitable for use in war.

(4) Gold and silver in coin or bullion; paper money.

(5) Vehicles of all kinds available for use in war, and their component parts.

(6) Vessels, crafts, and boats of all kinds; floating docks, parts of docks and their component parts.

(7) Railway material, both fixed and rolling-stock, and material for telegraphs, wireless telegraphs, and telephones.

(8) Balloons and flying machines and their distinctive component parts, together with accessories and articles recognizable as intended for use in connection with balloons and flying machines.

(9) Fuel; lubricants.

(10) Powder and explosives not specially prepared for use in war.

(11) Barbed wire and implements for fixing and cutting the same.

(12) Horseshoes and shoeing material.

(13) Harness and saddlery.

(14) Field glasses, telescopes, chronometers, and all kinds of nautical instruments.

Art. 25. Articles susceptible of use in war as well as for purposes of peace, other than those enumerated in Articles 22 and 24, may be added to the list of conditional contraband by a declaration which must be notified in the manner provided for in the second paragraph of Article 23.

Art. 26. If a Power waives, so far as it is concerned, the right to treat as contraband of war an article comprised in any of the classes enumerated in Articles 22 and 24, such intention shall be announced by a declaration, which must be notified in the manner provided for in the second paragraph of Article 23.

Art. 27. Articles which are not susceptible of use in war may not be declared contraband of war.

Art. 28. The following may not be declared contraband of war:

(1) Raw cotton, wool, silk, jute, flax, hemp, and other raw materials of the textile industries, and yarns of the same.

(2) Oil seeds and nuts; copra.

(3) Rubber, resins, gums, and lacs; hops.

(4) Raw hides and horns, bones and ivory.

(5) Natural and artificial manures, including nitrates and phosphates for agricultural purposes.

(6) Metallic ores.

(7) Earths, clays, lime, chalk, stone, including marble, bricks, slates, and tiles.

(8) Chinaware and glass.

(9) Paper and paper-making materials.

(10) Soap, paint and colours, including articles exclusively used in their manufacture, and varnish.

(11) Bleaching powder, soda ash, caustic soda, salt cake, ammonia, sulphate of ammonia, and sulphate of copper.

(12) Agricultural, mining, textile, and printing machinery.

(13) Precious and semi-precious stones, pearls, mother-of-pearl and coral.

(14) Clocks and watches, other than chronometers.

(15) Fashion and fancy goods.

(16) Feathers of all kinds, hairs, and bristles.

(17) Articles of household furniture and decoration; office furniture and requisites.

Art. 29. Likewise the following may not be treated as contraband of war:

(1) Articles serving exclusively to aid the sick and wounded. They can, however, in case of urgent military necessity and subject to the paying of compensation, be requisitioned, if their destination is that specified in Article 30.

(2) Articles intended for the use of the vessel in which they are found, as well as those intended for the use of her crew and passengers during the voyage.

Art. 30. Absolute contraband is liable to capture if it is shown to be destined to territory belonging to or occupied by the enemy, or to the armed forces of the enemy. It is immaterial whether the carriage of the goods is direct or entails transshipment or a subsequent transport by land.

Art. 31. Proof of the destination specified in Article 30 is complete in the following cases:

(1) When the goods are documented for discharge in an enemy port, or for delivery to the armed forces of the enemy.

(2) When the vessel is to call at enemy ports only, or when she is to touch at an enemy port or meet the armed forces of the enemy before reaching the neutral port for which the goods in question are documented.

Art. 32. Where a vessel is carrying absolute contraband, her papers are conclusive proof as to the voyage on which she is engaged, unless she is found clearly out of the course indicated by her papers and unable to give adequate reasons to justify such deviation.

Art. 33. Conditional contraband is liable to capture if it is shown to be destined for the use of the armed forces or of a government department of the enemy State, unless, in this latter case the circumstances show that the goods cannot in fact be used for the purposes of the war in progress. This latter exception does not apply to a consignment coming under Article 24 (4).

Art. 34. The destination referred to in Article 33 is presumed to exist if the goods are consigned to enemy authorities, or to a contractor established in the enemy country who, as a matter of common knowledge, supplies articles of this kind to the enemy. A similar presumption arises if the goods are consigned to a fortified place belonging to the enemy, or other place serving as a base for the armed forces of the enemy. No such presumption, however, arises in the case of a merchant vessel bound for one of these places if it is sought to prove that she herself is contraband.

In cases where the above presumptions do not arise, the destination is presumed to be innocent.

The presumptions set up by this Article may be rebutted.

Art. 35. Conditional contraband is not liable to capture, except when found on board a vessel bound for territory belonging to or occupied by the enemy, or for the armed forces of the enemy, and when it is not to be discharged in an intervening neutral port.

The ship's papers are conclusive proof both as to the voyage on which the vessel is engaged and as to the port of discharge of the goods, unless she is found clearly out of the course indicated by her papers, and unable to give adequate reasons to justify such deviation.

Art. 36. Notwithstanding the provisions of Article 35, conditional contraband, if shown to have the destination referred to in Article 33, is liable to capture in cases where the enemy country has no seaboard.

Art. 37. A vessel carrying goods liable to capture as absolute or conditional contraband, may be captured on the high seas or in the voyage, even if she is to touch at a port of call before reaching the hostile destination.

Art. 38. A vessel may not be captured on the ground that she has carried contraband on a previous occasion if such carriage is in point of fact at an end.

Art. 39. Contraband goods are liable to condemnation.

Art. 40. A vessel carrying contraband may be condemned if the contraband, reckoned either by value, weight, volume, or freight, forms more than half the cargo.

Art. 41. If a vessel carrying contraband is released, she may be condemned to pay the whole costs and expenses by the captor in respect of the proceedings in the national prize court and the custody of the ship and cargo during the proceedings.

Art. 42. Goods which belong to the owner of the contraband and are on board the same vessel are liable to condemnation.

Art. 43. If a vessel is encountered at sea while unaware of the outbreak of hostilities or of the declaration of contraband which applies to her cargo, the contraband cannot be condemned except on payment of compensation; the vessel herself and the remainder of the cargo are not liable to condemnation or to the costs and expenses referred to in Article 41. The same rule applies if the master, after becoming aware of the outbreak of hostilities, or of the declaration of contraband, has had no opportunity of discharging the contraband.

A vessel is deemed to be aware of the existence of a state of war, or of a declaration of contraband, if she left a neutral port subsequently to the notification to the Power to which such port belongs of the outbreak of hostilities or of the declaration of contraband respectively, provided that such notification was made in sufficient time. A vessel is also deemed to be aware of the existence of a state of war if she left an enemy port after the outbreak of hostilities.

Art. 44. A vessel which has been stopped on the ground that she is carrying contraband, and which is not liable to condemnation on account of the proportion of contraband on board, may, when the circumstances permit, be allowed to continue her voyage if the master is willing to hand over the contraband to the belligerent warship.

The delivery of the contraband must be entered by the captor on the logbook of the vessel stopped and the master must give the captor duly certified copies of all relevant papers.

The captor is at liberty to destroy the contraband that has been handed over to him under those conditions.

Chapter III—Unneutral Service

Art. 45. A neutral vessel will be condemned and will, in a general way, receive the same treatment as a neutral vessel liable to condemnation for carriage of contraband:

(1) If she is on a voyage specially undertaken with a view to the transport of individual passengers who are embodied in the armed forces of the enemy or with a view to the transmission of intelligence in the interest of the enemy.

(2) If to the knowledge of either the owner, the charterer, or the master, she is transporting a military detachment of the enemy, or one or more persons who, in the course of the voyage, directly assist the operations of the enemy.

In the cases specified under the above heads, goods belonging to the owner of the vessel are likewise liable to condemnation.

The provisions of the present Article do not apply if the vessel is encountered at sea while unaware of the outbreak of hostilities, or if the master, after becoming aware of the outbreak of hostilities, has had no opportunity of disembarking the passengers. The vessel is deemed to be aware of the existence of a state of war if she left an enemy port subsequently to the outbreak of hostilities, or a neutral port subsequently to the notification of the outbreak of hostilities to the Power to which such port belongs, provided that such notification was made in sufficient time.

Art. 46. A neutral vessel will be condemned and, in a general way, receive the same treatment as would be applicable to her if she were an enemy merchant vessel:

(1) If she takes a direct part in the hostilities;

(2) If she is under the orders or control of an agent placed on board by the enemy Government;

(3) If she is in the exclusive employment of the enemy Government.

(4) If she is exclusively engaged at the time either in the transport of enemy troops or in the transmission of intelligence in the interest of the enemy.

In the cases covered by the present Article, goods belonging to the owner of the vessel are likewise liable to condemnation.

Art. 47. Any individual embodied in the armed forces of the enemy who is found on board a neutral merchant vessel, may be made a prisoner of war, even though there be no ground for the capture of the vessel.

Chapter IV—Destruction of Neutral Prizes

Art. 48. A neutral vessel which has been captured may not be destroyed by the captor; she must be taken into such port as is proper for the determination there of all questions concerning the validity of the capture.

Art. 49. As an exception, a neutral vessel which has been captured by a belligerent warship, and which would be liable to condemnation, may be destroyed if the observance of Article 48 would involve danger to the safety of the warship or to the success of the operations in which she is engaged at the time.

Art. 50. Before the vessel is destroyed all persons on board must be placed in safety, and all the ship's papers and other documents, which the parties interested consider relevant for the purpose of deciding on the validity of the capture must be taken on board the warship.

Art. 51. A captor who has destroyed a neutral vessel must, prior to any decision respecting the validity of the prize, establish that he only acted in the face of an exceptional necessity of the nature contemplated in Article 49. If he fails to do this, he must compensate the parties interested and no examination shall be made of the question whether the capture was valid or not.

Art. 52. If the capture of a neutral vessel is subsequently held to be invalid, though the act of destruction is held to have been justifiable, the captor must pay compensation to the parties interested, in place of the restitution to which they would have been entitled.

Art. 53. If neutral goods not liable to condemnation have been destroyed with the vessel, the owner of such goods is entitled to compensation.

Art. 54. The captor has the right to demand the handing over, or to proceed himself to the destruction of, any goods liable to condemnation found on board a vessel not herself liable to condemnation, provided that the circumstances are such as would, under Article 49, justify the destruction of a vessel herself liable to condemnation. The captor must enter the goods surrendered or destroyed in the logbook of the vessel stopped, and must obtain duly certified copies of all relevant papers. When the goods have been handed over or destroyed, and the formalities duly carried out, the master must be allowed to continue his voyage.

The provisions of Articles 51 and 52 respecting the obligations of a captor who has destroyed a neutral vessel are applicable.

Chapter V—Transfer to a Neutral Flag

Art. 55. The transfer of an enemy vessel to a neutral flag, effected before the outbreak of hostilities, is valid, unless it is proved that such

transfer was made in order to evade the consequences to which an enemy vessel, as such, is exposed. There is, however, a presumption, if the bill of sale is not on board the vessel which has lost her belligerent nationality less than sixty days before the outbreak of hostilities, that the transfer is void. This presumption may be rebutted.

Where the transfer was effected more than thirty days before the outbreak of hostilities, there is an absolute presumption that it is valid if it is unconditional, complete and in conformity with the laws of the countries concerned, and if its effect is such that neither the control of, nor the profits arising from the employment of, the vessel remain in the same hands as before the transfer. If, however, the vessel lost her belligerent nationality less than sixty days before the outbreak of hostilities and if the bill of sale is not on board, the capture of the vessel gives no right to damages.

Art. 56. The transfer of an enemy vessel to a neutral flag effected after the outbreak of hostilities, is void unless it is proved that such transfer was not made in order to evade the consequences to which an enemy vessel, as such, is exposed.

There, however, is an absolute presumption that a transfer is void:

(1) If the transfer has been made during a voyage or in a blockaded port.

(2) If a right to repurchase or recover the vessel is reserved to the vendor.

(3) If the requirements of the municipal law governing the right to fly the flag under which the vessel is sailing, have not been fulfilled.

Chapter VI—Enemy Character

Art. 57. Subject to the provisions respecting transfer to another flag, the neutral or enemy character of a vessel is determined by the flag which she is entitled to fly.

The case where a neutral vessel is engaged in trade which is closed in time of peace remains outside the scope of, and is in no wise affected by, this rule.

Art. 58. The neutral or enemy character of goods found on board an enemy vessel is determined by the neutral or enemy character of the owner.

Art. 59. In the absence of proof of the neutral character of the goods found on board an enemy vessel, they are presumed to be enemy goods.

Art. 60. Enemy goods on board an enemy vessel retain their enemy character until they reach their destination, notwithstanding any transfer effected after the outbreak of hostilities while the goods are being forwarded.

If, however, prior to the capture, a former neutral owner exercises, on the bankruptcy of an existing enemy owner, a recognized legal right to recover the goods, they regain their neutral character.

Chapter VII—Convoy

Art. 61. Neutral vessels under national convoy are exempt from search. The commander of a convoy gives, in writing, at the request of a commander of a belligerent warship, all information as to the character of the vessels and their cargoes, which could be obtained by search.

Art. 62. If the commander of the belligerent warship has reason to suspect that the confidence of the commander of the convoy has been abused, he communicates his suspicions to him. In such a case it is for the commander of the convoy alone to investigate the matter. He must record the result of such investigation in a report, of which a copy is handed to the officer of the warship. If, in the opinion of the commander of the convoy, the facts shown in the report justify the capture of one or more vessels, the protection of the convoy must be withdrawn from such vessels.

Chapter VIII—Resistance to Search

Art. 63. Forcible resistance to the legitimate exercise of the right of stoppage, search, and capture, involves in all cases the condemnation of the vessel. The cargo is liable to the same treatment as the cargo of an enemy vessel. Goods belonging to the master or owner of the vessel are treated as enemy goods.

Chapter IX—Compensation

Art. 64. If the capture of a vessel or of goods is not upheld by the prize court, or if the prize is released without any judgment being given, the parties interested have the right to compensation, unless there were good reasons for capturing the vessel or goods.

Final Provisions

Art. 65. The provisions of the present declaration must be treated as a whole, and cannot be separated.

Art. 66. The Signatory Powers undertake to insure the mutual observance of the rules contained in the present Declaration in any war in which all the belligerents are parties thereto. They will therefore issue the necessary instructions to their authorities and to their armed forces, and will take such measures as may be required in order to insure that it will be applied by their courts, and more particularly by their prize courts.

(Ratifications to be deposited at London, and to take effect in sixty days after protocol recording such deposit. Denunciation not to take effect until after 12 years from date of ratification. Adherence of other Powers invited.)⁴⁶

⁴⁶ Senate Documents, 3d Session 62d Congress, 10, 266 to 282.

INTERNATIONAL PRIZE COURT CONVENTION

Part I—General Provisions

Article 1. The validity of the capture of a merchant-ship or its cargo is decided before a Prize Court in accordance with the present Convention when neutral or enemy property is involved.

Art. 2. Jurisdiction in matters of prize is exercised in the first instance by the prize Courts of the belligerent captor.

The judgments of these Courts are pronounced in public or are officially notified to parties concerned who are neutrals or enemies.

Art. 3. The judgments of National Prize Courts may be brought before the International Prize Court:

1. When the judgment of the National Prize Courts affects the property of a neutral Power or individual;

2. When the judgment affects enemy property and relates to:

(a) Cargo on board a neutral ship;

(b) An enemy ship captured in the territorial waters of a neutral Power, when that Power has not made the capture the subject of a diplomatic claim;

(c) A claim based upon the allegation that the seizure has been effected in violation, either of the provisions of a Convention in force between the belligerent Powers, or of an enactment issued by the belligerent captor.

The appeal against the judgment of the National Court can be based on the ground that the judgment was wrong either in fact or in law.

Art. 4. An appeal may be brought:

1. By a neutral Power, if the judgment of the National Tribunals injuriously affects its property or the property of its nationals (Article 3 (1)), or if the capture of an enemy vessel is alleged to have taken place in the territorial waters of that Power (Article 3 (2) (b));

2. By a neutral individual, if the judgment of the National Court injuriously affects his property (Article 3 (1)) subject, however, to the reservation that the Power to which he belongs may forbid him to bring the case before the Court, or may itself undertake the proceedings in his place;

3. By an individual subject or citizen of any Power, if the judgment of the National Court injuriously affects his property in the cases referred to in Article 3 (2), except that mentioned in paragraph (b).

Art. 5. An appeal may also be brought on the same conditions as in the preceding Article, by persons belonging either to neutral States or to the enemy, deriving their rights from and entitled to represent an individual qualified to appeal, and who have taken part in the proceedings before the National Court. Persons so entitled may appeal separately to the extent of their interest.

The same rule applies in the case of persons belonging either to neu-

tral States or to the enemy who derive their rights from and are entitled to represent a neutral Power whose property was the subject of the decision.

Art. 6. When in accordance with the above Article 3, the International Court has jurisdiction, the National Courts cannot deal with a case in more than two instances. The municipal law of the belligerent captor shall decide whether the case may be brought before the International Court after judgment has been given in first instance or only after an appeal.

If the National Courts fail to give final judgment within two years from the date of capture, the case may be carried direct to the International Court.

Art. 7. If a question of law to be decided is covered by a Treaty in force between the belligerent captor and a Power which is itself or whose subject or citizen is a party to the proceedings, the Court is governed by the provisions of the said Treaty.

In the absence of such provisions, the Court shall apply the rules of international law. If no generally recognized rule exists, the Court shall give judgment in accordance with the general principles of justice and equity.

The above provisions apply equally to questions relating to the order and mode of proof.

If, in accordance with Article 3 (2) (c), the ground of appeal is the violation of an enactment issued by the belligerent captor, the Court will enforce the enactment.

The Court may disregard failure to comply with the procedure laid down in the enactments of the belligerent captor, when it is of opinion that the consequences of complying therewith are unjust and inequitable.

Art. 8. If the Court pronounces the capture of the vessel or cargo to be valid, they shall be disposed of in accordance with the laws of the belligerent captor.

If it pronounces the capture to be null, the Court shall order restitution of the vessel or cargo, and shall fix, if there is occasion, the amount of damages. If the vessel or cargo has been sold or destroyed, the Court shall determine the compensation to be given to the owner on this account.

If the national Court pronounced the capture to be null, the Court can only be asked to decide as to the damages.

Art. 9. The Contracting Powers undertake to submit in good faith to the decisions of the International Prize Court and to carry them out with the least possible delay.

Part II—Constitution of the International Prize Court

Art. 10. The International Prize Court is composed of Judges and Deputy Judges, who will be appointed by the Contracting Powers, and must all be jurists of known proficiency in questions of international maritime law, and of the highest moral reputation.

The appointment of these Judges and Deputy Judges shall be made within six months after the ratification of the present Convention.

Art 11. The Judges and Deputy Judges are appointed for a period of six years, reckoned from the date on which the notification of their appointment is received by the Administrative Council established by the Convention for the Pacific Settlement of International Disputes of the 29th July, 1899. Their appointments can be renewed.

Should one of the Judges or Deputy Judges die or resign, the same procedure is followed for filling the vacancy as was followed for appointing him. In this case, the appointment is made for a fresh period of six years.

Art. 12. The Judges of the International Prize Court are all equal in rank and have precedence according to the date on which the notification of their appointment was received (Article 11, paragraph 1), and if they sit by rota (Article 15, paragraph 2), according to the date on which they entered upon their duties. When the date is the same the senior in age takes precedence.

The Deputy Judges when acting are assimilated to the Judges, they rank, however, after them.

Art. 13. The Judges enjoy diplomatic privileges and immunities in the performance of their duties and when outside their own country.

Before taking their seat, the Judges must swear, or make a solemn promise before the Administrative Council, to discharge their duties impartially and conscientiously.

Art. 14. The Court is composed of fifteen Judges; nine Judges constitute a quorum.

A Judge who is absent or prevented from sitting is replaced by the Deputy Judge.

Art. 15. The Judges appointed by the following Contracting Powers: Germany, the United States of America, Austria-Hungary, France, Great Britain, Italy, Japan, and Russia, are always summoned to sit.

The Judges and Deputy Judges appointed by the other Contracting Powers sit by rota as shown in the table annexed to the present Convention; their duties may be performed successively by the same person. The same Judge may be appointed by several of the said Powers.

Art. 16. If a belligerent Power has, according to the rota, no Judge sitting in the Court, it may ask that the Judge appointed by it should take part in the settlement of all cases arising from the war. Lots shall then be drawn as to which of the Judges entitled to sit according to the rota shall withdraw. This arrangement does not affect the Judge appointed by the other belligerent.

Art. 17. No Judge can sit who has been a party, in any way whatever, to the sentence pronounced by the National Courts, or has taken part in the case as counsel or advocate for one of the parties.

No Judge or Deputy Judge can, during his tenure of office, appear as

agent or advocate before the International Prize Court, nor act for one of the parties in any capacity whatever.

Art. 18. The belligerent captor is entitled to appoint a naval officer of high rank to sit as Assessor, but with no voice in the decision. A neutral Power, which is a party to the proceeding or whose subject or citizen is a party, has the same right of appointment; if as the result of this last provision more than one Power is concerned, they must agree among themselves, if necessary by lot, on the officer to be appointed.

Art. 19. The court elects its President and Vice-President by an absolute majority of the votes cast. After two ballots, the election is made by a bare majority, and, in case the votes are equal, by lot.

Art. 20. The Judges on the International Prize Court are entitled to travelling allowances in accordance with the regulations in force in their own country, and in addition receive, while the court is sitting or while they are carrying out duties conferred upon them by the Court, a sum of 100 Netherland florins per diem.

These payments are included in the general expenses of the Court dealt with in Article 47, and are paid through the International Bureau established by the Convention of the 29th July, 1899.

The Judges may not receive from their own Government or from that of any other Power any remuneration in their capacity of members of the Court.

Art. 21. The seat of the International Prize Court is at the Hague and it cannot, except in the case of *force majeure*, be transferred elsewhere without the consent of the belligerents.

Art. 22. The Administrative Council fulfils, with regard to the International Prize Court, the same functions as to the Permanent Court of Arbitration, but only representatives of Contracting Powers will be members of it.

Art. 23. The International Bureau acts as registry to the International Prize Court and must place its offices and staff at the disposal of the Court. It has charge of the archives and carries out the administrative work.

The Secretary-General of the International Bureau acts as Registrar.

The necessary secretaries to assist the Registrar, translators and shorthand writers are appointed and sworn in by the Court.

Art. 24. The Court determines which language it will itself use and what languages may be used before it, but the official languages of the National Courts which have had cognizance of the case may always be used before the Court.

Art. 25. Powers which are concerned in a case may appoint special agents to act as intermediaries between themselves and the Court. They may also engage counsel or advocates to defend their rights and interests.

Art. 26. A private person concerned in a case will be represented before the court by an attorney, who must be either an advocate qualified to plead

before a Court of Appeal or a Hight Court of one of the Contracting States, or a lawyer practising before a similar Court, or lastly, a professor of law at one of the higher teaching centers of those countries.

Art. 27. For all notices to be served, in particular on the parties, witnesses, or experts, the Court may apply direct to the Government of the State on whose territory the service is to be carried out. The same rule applies in the case of steps being taken to procure evidence.

The requests for this purpose are to be executed so far as the means at the disposal of the Power applied to under its municipal law allow. They cannot be rejected unless the Power in question considers them calculated to impair its sovereign rights or its safety. If the request is complied with, the fees charged must only comprise the expenses actually incurred.

The Court is equally entitled to act through the Power on whose territory it sits.

Notices to be given to parties in the place where the Court sits may be served through the International Bureau.

Part III—Procedure in the International Prize Court

Art. 28. An appeal to the International Prize Court is entered by means of a written declaration made in the National Court which has already dealt with the case or addressed to the International Bureau; in the latter case the appeal can be entered by telegram.

The period within which the appeal must be entered is fixed at 120 days, counting from the day the decision is delivered or notified. (Article 2, paragraph 2.)

Art. 29. If the notice of appeal is entered in the National Court, this Court, without considering the question whether the appeal was entered in due time, will transmit within seven days the record of the case to the International Bureau.

If the notice of the appeal is sent to the International Bureau, the Bureau will immediately inform the National Court, when possible by telegraph. The latter will transmit the record as provided in the preceding paragraph.

When the appeal is brought by a neutral individual the International Bureau at once informs by telegraph the individual's Government, in order to enable it to enforce the rights it enjoys under Article 4, paragraph 2.

Art. 30. In the case provided for in Article 6, paragraph 2, the notice of appeal can be addressed to the International Bureau only. It must be entered within thirty days of the expiration of two years.

Art. 31. If the appellant does not enter his appeal within the periods laid down in Article 28 or 30, it shall be rejected without discussion.

Provided that he can show that he was prevented from so doing by *force majeure*, and that the appeal was entered within sixty days after

the circumstances which prevented him entering it before had ceased to operate, the court can, after hearing the respondent, grant relief from the effect of the above provision.

Art. 32. If the appeal is entered in time, a certified copy of the notice of appeal is forthwith officially transmitted by the Court to the respondent.

Art. 33. If in addition to the parties who are before the Court there are other parties concerned who are entitled to appeal, or if, in the case referred to in Article 29, paragraph 3, the Government who has received notice of an appeal has not announced its decision, the Court will await before dealing with the case the expiration of the period laid down in Articles 28 and 30.

Art. 34. The procedure before the International Court includes two distinct parts: the written pleadings and oral discussions.

The written pleadings consist of the deposit and exchange of cases, counter-cases, and, if necessary, of replies, of which the order is fixed by the Court, as also the periods within which they must be delivered. The parties annex thereto all papers and documents of which they intend to make use.

A certified copy of every document produced by one party must be communicated to the other party through the medium of the Court.

Art. 35. After the close of the pleadings, a public sitting is held on a day fixed by the Court.

At this sitting the parties state their view of the case both as to the law and as to the facts.

The Court may, at any stage of the proceedings, suspend speeches of counsel, either at the request of one of the parties, or on their own initiative, in order that supplementary evidence may be obtained.

Art. 36. The International Court may order the supplementary evidence to be taken either in the manner provided by Article 27, or before itself, or one or more of the members of the Court, provided that this can be done without resort to compulsion or the use of threats.

If steps are to be taken for the purpose of obtaining evidence by members of the Court outside the territory where it is sitting, the consent of the foreign Government must be obtained.

Art. 37. The parties are summoned to take part in all stages of the proceedings and receive certified copies of the Minutes.

Art. 38. The discussions are under the control of the President or Vice-President, or, in case they are absent or cannot act, of the senior Judge present.

The Judge appointed by a belligerent party cannot preside.

Art. 39. The discussions take place in public, subject to the right of a Government who is a party to the case to demand that they be held in private.

Minutes are taken of these discussions, and signed by the President and Registrar, and these Minutes alone have an authentic character.

Art. 40. If a party does not appear, despite the fact that he has been duly cited, or if a party fail to comply with some step within the period fixed by the Court, the case proceeds without that party, and the Court gives judgment in accordance with the material at its disposal.

Art. 41. The court officially notifies to the parties Decrees or decisions made in their absence.

Art. 42. The Court takes into consideration in arriving at its decision all the facts, evidence, and oral statements.

Art. 43. The Court considers its decision in private and the proceedings are secret.

All questions are decided by a majority of the Judges present. If the number of Judges is even and equally divided, the vote of the Junior Judge in the order of precedence laid down in Article 12, paragraph 1, is not counted.

Art. 44. The judgment of the Court must give the reasons on which it is based. It contains the names of the Judges taking part, and also the Assessors, if any; it is signed by the President and Registrar.

Art. 45. The sentence is pronounced in public sitting, the parties concerned being present or duly summoned to attend; the sentence is officially communicated to the parties.

When the communication has been made, the Court transmits to the National Prize Court the record of the case, together with copies of the various decisions arrived at and of the Minutes of the proceedings.

Art. 46. Each party pays its own costs.

The party against whom the Court decides bears, in addition, the costs of the trial, and also pays 1 per cent of the value of the subject matter of the case, as a contribution to the general expenses of the International Court. The amount of these payments is fixed in the judgment of the Court.

If the appeal is brought by an individual, he will furnish the International Bureau with security to an amount fixed by the Court, for the purpose of guaranteeing eventual fulfillment of the two obligations mentioned in the preceding paragraph. The Court is entitled to postpone the opening of the proceedings until the security has been furnished.

Art. 47. The general expenses of the International Prize Court are borne by the Contracting Powers in proportion to their share in the composition of the Court as laid down in Article 15 and in the annexed Table. The apportionment of Deputy Judges does not involve any contribution.

The Administrative Council applies to the Powers for the funds requisite for the working of the Court.

Art. 48. When the Court is not sitting, the duties conferred upon it by Article 32, Article 34, paragraphs 2 and 3, Article 35, paragraph 1, and Article 46, paragraph 3, are discharged by a delegation of three Judges appointed by the Court. This delegation decides by a majority of votes.

Art. 49. The Court itself draws up its own rules of procedure, which must be communicated to the Contracting Parties.

It will meet to elaborate these rules within a year of the ratification of the present Convention.

Art. 50. The Court may propose modifications in the provisions of the present Convention concerning procedure. The proposals are communicated through the medium of the Netherland Government, to the Contracting Powers, which will consider together as to the measures to be taken.

Part IV—Final Provisions

Art. 51. The present Convention does not apply as of right except when the belligerent Powers are all parties to the Convention.

It is further fully understood that an appeal to the International Prize Court can only be brought by a Contracting Power or the subject or citizen of a Contracting Power.

In the cases mentioned in Article 5, the appeal is only admitted when both the owner and the person entitled to represent him are equally Contracting Powers or the subjects or citizens of Contracting Powers.

Art. 52. The present Convention shall be ratified and the ratifications shall be deposited at The Hague as soon as all the Powers mentioned in Article 15 and in the Table annexed are in a position to do so.

The deposit of ratifications shall take place, in any case, on the 30th June, 1909, if the Powers which are ready to ratify furnish nine Judges and nine Deputy Judges to the Court, qualified to validly constitute a Court. If not, the deposit shall be postponed until this condition is fulfilled.

A Minute of the deposit of ratifications shall be drawn up, of which a certified copy shall be forwarded, through the diplomatic channel, to each of the Powers referred to in the first paragraph.

Art. 53. The Powers referred to in Article 25 and in the Table annexed are entitled to sign the present Convention up to the deposit of the ratifications contemplated in paragraph 2 of the preceding Article.

After this deposit they can at any time adhere to it, purely and simply. A Power wishing to adhere, notifies its intention in writing to the Netherland Government transmitting to it, at the same time, the act of adhesion, which shall be deposited in the archives of the said Government. The latter shall send, through the diplomatic channel, a certified copy of the notification and of the act of adhesion to all the Powers referred to in the preceding paragraph, informing them of the date on which it has received the notification.

Art. 54. The present Convention shall come into force six months from the deposit of the ratifications contemplated in Article 52, paragraphs 1 and 2.

The adhesions shall take effect sixty days after notification of such adhesion has been received by the Netherland Government, or as soon as

possible on the expiration of the period contemplated in the preceding paragraph.

The International Court shall, however, have jurisdiction to deal with prize cases decided by the National Courts at any time after the deposit of the ratifications or the receipt of the notification of the adhesions. In such cases, the period fixed in Article 28, paragraph 2, shall only be reckoned from the date when the Convention comes into force as regards a Power which has ratified or adhered.

Art. 55. The present Convention shall remain in force for twelve years from the time it comes in force, as determined by Article 54, paragraph 1, even in the case of Powers which adhere subsequently.

It shall be renewed tacitly from six years to six years unless denounced.

Denunciation must be notified in writing, at least one year before the expiration of each of the periods mentioned in the two preceding paragraphs, to the Netherland Government, which will inform all the other Contracting Powers.

Denunciation shall only take effect in regard to the Power which has notified it. The Convention shall remain in force in the case of the other Contracting Powers, providing that their participation in the appointment of Judges is sufficient to allow of the composition of the Court with nine Judges and nine Deputy Judges.

Art. 56. In case the present Convention is not in operation as regards all the Powers referred to in Article 15 and the annexed Table, the Administrative Council shall draw up a list on the lines of that Article and Table of the Judges and Deputy Judges through whom the Contracting Powers will share in the composition of the Court. The times allotted by the said Table to Judges who are summoned to sit in rota will be redistributed between the different years of the six-year period in such a way that, as far as possible, the number of the Judges of the Court in each year shall be the same. If the number of Deputy Judges is greater than that of the Judges, the number of the latter can be completed by Deputy Judges chosen by lot among those Powers which do not nominate a Judge.

The list drawn up in this way by the Administrative Council shall be notified to the Contracting Powers. It shall be revised when the number of these Powers is modified as the result of adhesions or denunciations.

The change resulting from an adhesion is not made until the 1st January after the date on which the adhesion takes effect, unless the adhering Power is a belligerent Power, in which case it can ask to be at once represented in the Court, the provisions of Article 16 being, moreover, applicable if necessary.

When the total number of Judges is less than eleven, seven Judges form a quorum.

Art. 57. Two years from the expiration of each period referred to in paragraphs 1 and 2 of Article 15 any Contracting Power can demand a modification of the provisions of Article 15 and of the annexed Table.

relative to its participation in the composition of the Court. The demand shall be addressed to the Administrative Council, which will examine it and submit to all the Powers proposals as to the measures to be adopted. The Powers will inform the Administrative Council of their decision with the least possible delay. The result shall be at once, and at least one year and thirty days before the expiration of the said period of two years, communicated to the Power which made the demand.

When necessary, the modifications adopted by the Powers shall come into force from the commencement of the fresh period.

In faith whereof the Plenipotentiaries have appended their signatures to the present Convention.

Done at The Hague, the 18th October, 1907, in a single copy, which shall remain deposited in the archives of the Netherland Government, and duly certified copies of which shall be sent, through the diplomatic channel, to the Powers designated in Article 15 and in the Table annexed.

Annex to Article 15

Distribution of Judges and Deputy Judges by Countries for each Year of the period of Six Years

Judges		Deputy Judges		Judges		Deputy Judges	
First Year		Second Year					
1	Argentina	Paraguay		Argentina	Panama		
2	Colombia	Bolivia		Spain	Spain		
3	Spain	Spain		Greece	Roumania		
4	Greece	Roumania		Norway	Sweden		
5	Norway	Sweden		Netherlands	Belgium		
6	Netherlands	Belgium		Turkey	Luxemburg		
7	Turkey	Persia		Uruguay	Costa Rica		
Third Year		Fifth Year					
1	Brazil	Santo Domingo		Belgium	Netherlands		
2	China	Turkey		Bulgaria	Montenegro		
3	Spain	Portugal		Chile	Nicaragua		
4	Netherlands	Switzerland		Denmark	Norway		
5	Roumania	Greece		Mexico	Cuba		
6	Sweden	Denmark		Persia	China		
7	Venezuela	Haiti		Portugal	Spain		
Fourth Year		Sixth Year					
1	Brazil	Guatemala		Belgium	Netherlands		
2	China	Turkey		Chile	Salvador		
3	Spain	Portugal		Denmark	Norway		
4	Peru	Honduras		Mexico	Ecuador		
5	Roumania	Greece		Portugal	Spain		
6	Sweden	Denmark		Servia	Bulgaria		
7	Switzerland	Netherlands		Siam	China		

In Executive Session, Senate of the United States.

Resolved (two-thirds of the Senators present concurring therein), That the Senate advise and consent to the ratification of the convention for an international prize court signed at The Hague on the 18th day of October, 1907, and at the same time to the ratification, as forming an integral part of the said convention, of the protocol thereto, signed at The Hague on the 19th day of September, 1910, and transmitted to the Senate by the President on the 2d of February, 1911: *Provided*, That it is the understanding of the Senate and is a condition of its consent and advice that in the instrument of ratification the United States of America shall declare that in prize cases recourse to the International Court of Prize can only be exercised against it in the form of an action in damages for the injuries caused by the capture.

Additional Protocol to the Convention Relative to the Establishment
of an International Court of Prize

Article 1. The powers signatory or adhering to The Hague Convention of October 18, 1907, relative to the establishment of an international court of prize, which are prevented by difficulties of a constitutional nature from accepting the said convention in its present form, have the right to declare in the instrument of ratification or adherence that in prize cases, wherefore their national courts have jurisdiction, recourse to the international court of prize can only be exercised against it in the form of an action in damages for the injuries caused by the capture.

Art. 2. In the case of recourse to the international court of prize, in the form of an action for damages, Article 8 of the convention is not applicable; it is not for the court to pass upon the validity or the nullity of the capture, nor to reverse or affirm the decision of national tribunals.

If the capture is considered illegal, the court determines the amount of damages to be allowed, if any, to the claimants.

Art. 3. The conditions to which recourse to the international court of prize is subject by the convention are applicable to the action in damages.

Art. 4. Under reserve of the provisions hereinafter stated the rules of procedure established by the convention for recourse to the international court of prize shall be observed in the action in damages.

Art. 5. In derogation of Article 28, paragraph 1, of the convention, the suit for damages can only be brought before the international prize court by means of a written declaration addressed to the International Bureau of the Permanent Court of Arbitration; the case may even be brought before the Bureau by telegram.

Art. 6. In derogation of article 29 of the convention the International Bureau shall notify directly, and if possible by telegram, the Government of the belligerent captor of the declaration of action brought before it.

The Government of the belligerent captor, without considering whether

the prescribed periods of time have been observed, shall, within seven days of the receipt of the notification, transmit to the international bureau the case, appending thereto a certified copy of the decision, if any, rendered by the national tribunal.

Art. 7. In derogation of Article 45, paragraph 2, of the Convention the court rendering its decision and notifying it to the parties to the suit shall send directly to the Government of the belligerent captor the record of the case submitted to it, appending thereto a copy of the various intervening decisions as well as a copy of the minutes of the preliminary proceedings.

Art. 8. The present additional protocol shall be considered as forming an integral part of and shall be ratified at the same time as the original Convention.

If the declaration provided for in Article 1 herein above is made in the instrument of the ratification, a certified copy thereof shall be inserted in the procès verbal of the deposit of ratifications referred to in Article 52, paragraph 3, of the Convention.

Art. 9. Adherence to the convention is subordinated to adherence to the present additional protocol.

In faith of which the plenipotentiaries have affixed their signatures to the present additional protocol.

Done at The Hague on the 19th day of September, 1910, in a single copy, which shall remain deposited in the archives of the Government of the Netherlands and of which duly certified copies shall be forwarded through the diplomatic channels to the powers designated in Article 15 of the convention relative to the establishment of an international court of prize of October 18, 1907, and in its appendix.

(Signatures.)⁴⁷

Under the terms of this Convention jurisdiction in matters of prize is exercised in the first instance by the Courts of the captor. These judgments may then be brought before the International Prize Court when they affect a Neutral Power or individual and when they affect enemy property on a neutral ship, an enemy ship captured in neutral waters, or the seizure is claimed to have been made in violation of a Convention between the belligerents or an enactment of the captor. Provision is made for the constitution of the Court and for procedure in it but it has not yet been formed. In Article 7 it is provided:

"If a question of law to be decided is covered by a Treaty in force

⁴⁷ Senate Documents, 3d Session 62d Congress, 10, 248 to 264.

between the belligerent captor and a Power which is itself or whose subject or citizen is a party to the proceedings, the Court is governed by the provisions of the said Treaty.

In the absence of such provisions, the Court shall apply the rules of international law. If no generally recognized rule exists, the Court shall give judgment in accordance with the general principles of justice and equity."

The last paragraph above quoted recognizes that there are cases as to which no generally recognized rule of international law exists. In such cases it is left to the Court to determine what are "the general principles of justice and equity" in cases in which, in the nature of things, if the right to take prizes is recognized, there can be no such thing as justice and equity. Though this article was proposed to the Hague Conference by the British delegation it was so unsatisfactory to the British Government that a Conference of the Powers was called by it to meet at London in 1908. In his instructions to the delegates of the United States to this Conference Secretary Root said:

"The absence of a general agreement upon the rules of international law is recognized in the concluding sentence of the paragraph under consideration, which provides that "if no generally recognized rule exists, the court shall give judgment in accordance with the general principles of justice and equity." This provision of the article has given rise to great discussion and dissatisfaction, because wide divergence of view exists as to the law properly applicable in such case. For example: In Anglo-American jurisprudence the laws of contraband and blockade constitute a system recognized generally as the Anglo-American system, whereas the laws of contraband and blockade definitely understood on the Continent are applied in the Continental as distinguished from the Anglo-American sense. As, therefore, it cannot be said that there is any general rule regulating the subject, as the partisans of each system judge and determine for themselves each case as it arises, it necessarily follows that the court would be obliged to determine which system is considered as more conformable, with the general principles of justice and equity."

In its note of March 27, 1908, inviting a conference, the British Government stated that:

"The discussions which took place at The Hague during the recent conference showed that on various questions connected with maritime war divergent views and practices prevailed among the nations of the world. Upon some of these subjects an agreement was reached, but on others it was not found possible, within the period for which the con-

ference assembled, to arrive at an understanding. The impression was gained that the establishment of the international prize court would not meet with general acceptance so long as vagueness and uncertainty exist as to the principles which the court, in dealing with appeals brought before it, would apply to questions of far-reaching importance affecting naval policy and practice.

The subjects upon which an agreement was considered indispensable by the British Government in order to enable the international prize court to perform the high services expected of this establishment were the following:

(a) Contraband, including the circumstances under which particular articles can be considered as contraband; the penalties for their carriage; the immunity of a ship from search when under convoy; and the rules with regard to compensation where vessels have been seized, but have been found in fact only to be carrying innocent cargo.

(b) Blockade, including the questions as to the locality where seizure can be effected, and the notice that is necessary before a ship can be seized.

(c) The doctrine of continuous voyage in respect both of contraband and of blockade.

(d) The legality of the destruction of neutral vessels prior to their condemnation by a prize court.

(e) The rules as to neutral ships or persons rendering "unneutral service" ("assistance hostile").

(f) The legality of conversion of a merchant vessel into a warship on the high seas.

(g) The rules as to the transfer of a merchant vessel from a belligerent to a neutral flag during or in contemplation of hostilities.

(h) The question whether the nationality or domicile of the owner should be adopted as the dominant factor in deciding whether property is enemy property."

The importance attached by the British Government to an agreement upon these various subjects enumerated in the program is evidenced by the fact that it is stated in the British note that "it would be difficult, if not impossible, for His Majesty's Government to carry the legislation necessary to give effect to the convention unless they could assure both Houses of the British Parliament that some more definite understanding had been reached as to rules by which the new tribunal should be governed."

To provide for this difficulty a conference was held at London by Representatives of Germany, United States, Austria-Hungary, France, Great Britain and the Netherlands and the

Declaration Concerning the Laws of Naval Warfare was agreed upon and signed by them on the 26th February, 1909, and afterward by Spain, Italy, Russia and Japan. This Declaration is an expression of the views of all the leading maritime nations as to the rules which should prevail and thereby becomes the international law on the subject, if such law exists. It is given above in full.*

FINAL ACT OF THE SECOND INTERNATIONAL PEACE CONFERENCE

The Second International Peace Conference, proposed in the first instance by the President of the United States of America, having been convoked, on the invitation of His Majesty the Emperor of all the Russias, by Her Majesty the Queen of the Netherlands, assembled on the 15th June, 1907, at the Hague, in the Hall of the Knights, for the purpose of giving a fresh development to the humanitarian principles which served as a basis for the work of the First Conference of 1899.

The following Powers took part in the Conference, and appointed the Delegates named below:

(Here follows a list of the countries represented and the names of their respective Plenipotentiaries).

At a series of meetings, held from the 15th June to the 18th October, 1907, in which the above delegates were throughout animated by the desire to realize, in the fullest possible measure, the generous views of the august initiator of the Conference and the intentions of their Governments, the Conference drew up for submission for signature by the Plenipotentiaries, the text of the Conventions and of the Declaration enumerated below and annexed to the present Act:

1. Convention for the Pacific Settlement of International Disputes.
2. Convention respecting the Limitation of the Employment of Force for the Recovery of Contract Debts.
3. Convention relative to the Opening of Hostilities.
4. Convention respecting the Laws and Customs of War on Land.
5. Convention respecting the Rights and Duties of Neutral Powers and Persons in case of War on Land.
6. Convention relative to the Status of Enemy Merchant-ships at the Outbreak of Hostilities.
7. Convention relative to the Conversion of Merchant-ships into War-ships.
8. Convention relative to the Laying of Automatic Submarine Contact Mines.
9. Convention respecting Bombardment by Naval Forces in time of War.
10. Convention for the Adaptation to Naval War of the Principles of the Geneva Convention.

* Supra, p. 327.

11. Convention relative to certain Restrictions with regard to the Exercise of the Right of Capture in Naval War.

12. Convention relative to the creation of an International Prize Court.

13. Convention concerning the Rights and Duties of Neutral Powers in Naval War.

14. Declaration prohibiting the discharge of Projectiles and Explosives from Balloons.

These Conventions and Declarations shall form so many separate Acts. These Acts shall be dated this day, and may be signed up to the 30th June, 1908, at The Hague, by the Plenipotentiaries of the Powers represented at Second Peace Conference.

The Conference, actuated by the spirit of mutual agreement and concession characterizing its deliberations, has agreed upon the following Declaration, which, while reserving to each of the Powers represented full liberty of action as regards voting, enables them to affirm the principles which they regard as unanimously admitted:

It is unanimous—

1. In admitting the principle of compulsory arbitration.

2. In declaring that certain disputes, in particular those relating to the interpretation and application of the provisions of International Agreements, may be submitted to compulsory arbitration without any restriction.

Finally, it is unanimous in proclaiming that, although it has not yet been found feasible to conclude a Convention in this sense, nevertheless the divergencies of opinion which have come to light have not exceeded the bounds of judicial controversy, and that, by working together here during the past four months, the collected Powers not only have learnt to understand one another and to draw closer together, but have succeeded in the course of this long collaboration in evolving a very lofty conception of the common welfare of humanity.

The Conference has further unanimously adopted the following Resolution:

The Second Peace Conference confirms the resolution adopted by the Conference of 1899 in regard to the limitation of military expenditure; and inasmuch as military expenditure has considerably increased in almost every country since that time, the Conference declares that it is eminently desirable that the Governments should resume the serious examination of this question.

It has besides expressed the following opinions:

1. The Conference calls the attention of the Signatory Powers to the advisability of adopting the annexed draft Convention for the creation of a Judicial Arbitration Court, and of bringing it into force as soon as an agreement has been reached respecting the selection of the Judges and the constitution of the Court.

2. The Conference expresses the opinion that, in case of war, the responsible authorities, civil as well as military, should make it their special

duty to ensure and safeguard the maintenance of pacific relations, more especially of the commercial and industrial relations between the inhabitants of the belligerent States and neutral countries.

3. The Conference expresses the opinion that the Powers should regulate, by special Treaties, the position, as regards military charges, of foreigners residing within their territories.

4. The Conference expresses the opinion that the preparation of regulations relative to the laws and customs of naval war should figure in the programme of the next Conference, and that in any case the Powers may apply, so far as possible, to war by sea the principles of the Convention relative to the Laws and Customs of War on land.

Finally, the Conference recommends to the Powers the assembly of a Third Peace Conference, which might be held within a period corresponding to that which has elapsed since the preceding Conference, at a date to be fixed by common agreement between the Powers, and it calls their attention to the necessity of preparing the programme of this third Conference a sufficient time in advance to ensure its deliberations being conducted with the necessary authority and expedition.

In order to attain this object the Conference considers that it would be very desirable that, some two years before the probable date of the meeting, a preparatory Committee should be charged by the Governments with the task of collecting the various proposals to be submitted to the Conference, of ascertaining what subjects are ripe for embodiment in an International Regulation, and of proposing a programme which the Governments should decide upon in sufficient time to enable it to be carefully examined by the countries interested. This Committee should further be intrusted with the task of proposing a system of organization and procedure for the Conference itself.

In faith whereof the Plenipotentiaries have signed the present Act and have affixed their seals thereto.

Done at the Hague, the 18th October, 1907, in a single copy, which shall remain deposited in the archives of the Netherlands Government, and duly certified copies of which shall be sent to all the Powers represented at the Conference.⁴⁸

INTERNATIONAL RED CROSS CONVENTION

A second "Convention for the Amelioration of the Condition of the Wounded in Armies in the Field" was signed at Geneva, July 6, 1906, by the plenipotentiaries of the United States, Germany, Argentine Republic, Austria-Hungary, Belgium, Bulgaria, Chile, China, Congo Free State, Denmark, Spain, Brazil, Mexico, France, Great Britain, Greece, Guate-

⁴⁸ Senate Documents, 2d Session 61st Congress, 48, 2369.

mala, Honduras, Italy, Japan, Luxemburg, Montenegro, Norway, the Netherlands, Peru, Persia, Portugal, Roumania, Russia, Servia, Siam, Sweden, Switzerland, and Uruguay. It was ratified by the United States and proclaimed by the President August 3, 1907, and is as follows:

Article 1. Officers, soldiers and other persons officially attached to armies, who are sick or wounded, shall be respected and cared for, without distinction of nationality, by the belligerent in whose power they are.

A belligerent, however, when compelled to leave his wounded in the hands of his adversary, shall leave with them, so far as military operations permit, a portion of the personnel and materiel of his sanitary service to assist in caring for them.

Art. 2. Subject to the care that must be taken of them under the preceding article, the sick and wounded of an army who fall into the power of the other belligerent, become prisoners of war, and the general rules of international law in respect to prisoners become applicable to them.

The belligerents remain free, however, to mutually agree upon such clauses, by way of exception or favor, in relation to the wounded or sick as they may deem proper. They shall especially have authority to agree:

1. To mutually return the sick and wounded left on the field of battle after an engagement.

2. To send back to their own country the sick and wounded who have recovered, or who are in a condition to be transported and whom they do not desire to retain as prisoners.

3. To send the sick and wounded of the enemy to a neutral state, with the consent of the latter and on condition that it shall charge itself with their internment until the close of hostilities.

Art. 3. After every engagement the belligerent who remains in possession of the field of battle shall take measures to search for the wounded and to protect the wounded and dead from robbery and ill treatment.

He will see that a careful examination is made of the bodies of the dead prior to their interment or incineration.

Art. 4. As soon as possible each belligerent shall forward to the authorities of their country or army the marks or military papers of identification found upon the bodies of the dead, together with a list of names of the sick and wounded taken in charge by him.

Belligerents will keep each other mutually advised of internments and transfers, together with admissions to hospitals and deaths which occur among the sick and wounded in their hands. They will collect all objects of personal use, valuables, letters, etc., which are found upon the field of battle, or have been left by the sick or wounded who have died in sanitary formations or other establishments, for transmission to persons in interest through the authorities of their own country.

Art. 5. Military authorities may make an appeal to the charitable zeal of the inhabitants to receive and, under its supervision, to care for the sick and wounded of the armies, granting to persons responding to such appeals special protection and certain immunities.

Chapter II—Sanitary formations and establishments

Art. 6. Mobile sanitary formations (i.e. those which are intended to accompany armies in the field) and the fixed establishments belonging to the sanitary service shall be protected and respected by belligerents.

Art. 7. The protection due to sanitary formations and establishments ceases if they are used to commit acts injurious to the enemy.

Art. 8. A sanitary formation or establishment shall not be deprived of the protection accorded by article 6 by the fact:

1. That the personnel of a formation or establishment is armed and uses its arms in self-defense or in defense of its sick and wounded.

2. That in the absence of armed hospital attendants, the formation is guarded by an armed detachment or by sentinels acting under competent orders.

3. That arms or cartridges, taken from the wounded and not yet turned over to the proper authorities, are found in the formation or establishment.

Chapter III—Personnel

Art. 9. The personnel charged exclusively with the removal, transportation, and treatment of the sick and wounded, as well as with the administration of sanitary formations and establishments, and the chaplains attached to armies, shall be respected and protected under all circumstances. If they fall into the hands of the enemy they shall not be considered as prisoners of war.

These provisions apply to the guards of sanitary formations and establishments in the cases provided for in section 2 of article 8.

Art. 10. The personnel of volunteer aid societies, duly recognized and authorized by their governments, who are employed in the sanitary formations and establishments of armies, are assimilated to the personnel contemplated in the preceding article, upon condition that the said personnel shall be subject to military law and regulations.

Each state shall make known to the other, either in time of peace or at the opening, or during the progress of hostilities, and in any case before actual employment, the names of the societies which it has authorized to render assistance, under its responsibility, in the official sanitary service of its armies.

Art. 11. A recognized society of a neutral state can only lend the services of its sanitary personnel and formations to a belligerent with the prior consent of its own government and the authority of such belligerent.

The belligerent who has accepted such assistance is required to notify the enemy before making any use thereof.

Art. 12. Persons described in articles 9, 10, and 11 will continue in the exercise of their functions, under the direction of the enemy, after they have fallen into his power.

When their assistance is no longer indispensable they will be sent back to their army or country, within such period and by such route as may accord with military necessity. They will carry with them such effects, instruments, arms, and horses as are their private property.

Art. 13. While they remain in his power, the enemy will secure to the personnel mentioned in article 9 the same pay and allowances to which persons of the same grade in his own army are entitled.

Chapter IV—*Matériel*

Art. 14. If mobile sanitary formations fall into the power of the enemy, they shall retain their *matériel* including the teams, whatever may be the means of transportation and the conducting personnel. Competent military authority, however, shall have the right to employ it in caring for the sick and wounded. The restitution of the *matériel* shall take place in accordance with the conditions for sanitary personnel, and, as far as possible, at the same time.

Art. 15. Buildings and *matériel* pertaining to fixed establishments shall remain subject to the laws of war, but cannot be diverted from their use so long as they are necessary for the sick and wounded. Commanders of troops engaged in operations, however, may use them, in case of important military necessity, if, before such use, the sick and wounded who are in them have been provided for.

Art. 16. The *matériel* of aid societies admitted to the benefits of this convention, in conformity to the conditions therein established, is regarded as private property and, as such, will be respected under all circumstances, save that it is subject to the recognized right of requisition by belligerents in conformity to the laws and usages of war.

Chapter V—Convoys of evacuation

Art. 17. Convoys of evacuation shall be treated as mobile sanitary formations subject to the following special provisions:

1. A belligerent intercepting a convoy may, if required by military necessity, break up such convoy, charging himself with the care of the sick and wounded whom it contains.

2. In this case the obligation to return the sanitary personnel, as provided for in article 12, shall be extended to include the entire military personnel employed, under competent orders, in the transportation and protection of the convoy.

The obligation to return the sanitary *matériel*, as provided for in Article

14, shall apply to railway trains and vessels intended for interior navigation which have been especially equipped for evacuation purposes, as well as to the ordinary vehicles, trains, and vessels which belong to the sanitary service.

Military vehicles, with their teams, other than those belonging to the sanitary service, may be captured.

The civil personnel and the various means of transportation obtained by requisition, including railway material and vessels utilized for convoys, are subject to the general rules of international law.

Chapter VI—Distinctive emblems

Art. 18. Out of respect to Switzerland the heraldic emblem of the red cross on a white ground, formed by the reversal of the federal colors, is continued as the emblem and distinctive sign of the sanitary service of armies.

Art. 19. This emblem appears on the flags and brassards as well as upon all *matériel* appertaining to the sanitary service, with the permission of the competent military authority.

Art. 20. The personnel protected in virtue of the first paragraph of Article 9, and articles 10 and 11, will wear attached to the left arm a brassard bearing a red cross on a white ground, which will be issued and stamped by competent military authority, and accompanied by a certificate of identity in the case of persons attached to the sanitary service of armies who do not have military uniform.

Art. 21. The distinctive flag of the convention can only be displayed over the sanitary formations and establishments which the convention provides shall be respected, and with the consent of the military authorities. It shall be accompanied by the national flag of the belligerents to whose service the formation or establishment is attached.

Sanitary formations which have fallen into the power of the enemy, however, shall fly no other flag than that of the Red Cross so long as they continue in that situation.

Art. 22. The sanitary formations of neutral countries which, under the conditions set forth in article 11, have been authorized to render their services, shall fly, with the flag of the convention, the national flag of the belligerent to which they are attached. The provisions of the second paragraph of the preceding article are applicable to them.

Art. 23. The emblem of the red cross on a white ground and the words *Red Cross* or *Geneva Cross* may only be used, whether in time of peace or war, to protect or designate sanitary formations and establishments, the personnel and *matériel* protected by the convention.

Chapter VII—Application and execution of the convention

Art. 24. The provisions of the present convention are obligatory only on the contracting powers, in case of war between two or more of them.

The said provisions shall cease to be obligatory if one of the belligerent powers should not be signatory to the convention.

Art. 25. It shall be the duties of the commanders in chief of the belligerent armies to provide for the details of execution of the foregoing articles, as well as for unforeseen cases, in accordance with the instructions of their respective governments, and conformably to the general principles of this convention.

Art. 26. The signatory governments shall take the necessary steps to acquaint their troops, and particularly the protected personnel, with the provisions of this convention and to make them known to the people at large.

Chapter VIII—Repression of abuses and infractions

Art. 27. The signatory powers whose legislation may not now be adequate engage to take or recommend to their legislatures such measures as may be necessary to prevent the use, by private persons or by societies other than those upon which this convention confers the right thereto, of the emblem or name of the Red Cross or Geneva Cross, particularly for commercial purposes by means of trade-marks or commercial labels.

The prohibition of the emblem or name in question shall take effect from the time set in each act of legislation, and at the latest five years after this convention goes into effect. After such going into effect, it shall be unlawful to use a trade-mark or commercial label contrary to such prohibition.

Art. 28. In the event of their military penal laws being insufficient, the signatory governments also engage to take or to recommend to their legislatures, the necessary measures to repress, in time of war, individual acts of robbery and ill treatment of the sick and wounded of the armies, as well as to punish, as usurpations of military insignia, the wrongful use of the flag and brassard of the Red Cross by military persons or private individuals not protected by the present convention.

They will communicate to each other through the Swiss Federal Council the measures taken with a view to such repression, not later than five years from the ratification of the present convention.

General Provisions

Art. 29. The present convention shall be ratified as soon as possible. The ratifications will be deposited at Berne.

A record of the deposit of each act of ratification shall be prepared, of which a duly certified copy shall be sent, through diplomatic channels, to each of the contracting powers.

Art. 30. The present convention shall become operative, as to each power, six months after the date of deposit of its ratification.

Art. 31. The present convention, when duly ratified, shall supersede the Convention of August 22, 1864, in the relations between the contracting states.

The Convention of 1864 remains in force in the relations between the parties who signed it but who may not also ratify the present convention.

Art. 32. The present convention may, until December 31, proximo, be signed by the powers represented at the conference which opened at Geneva on June 11, 1906, as well as by the powers not represented at the conference who have signed the Convention of 1864.

Such of these powers as shall not have signed the present convention on or before December 31, 1906, will remain at liberty to accede to it after that date. They shall signify their adherence in a written notification addressed to the Swiss Federal Council, and communicated to all the contracting powers by the said council.

Other powers may request to adhere in the same manner, but their request shall only be effective if, within the period of one year from its notification to the Federal Council, such Council has not been advised of any opposition on the part of any of the contracting powers.

Art. 33. Each of the contracting parties shall have the right to denounce the present convention. This denunciation shall only become operative one year after a notification in writing shall have been made to the Swiss Federal Council, which shall forthwith communicate such notification to all the other contracting parties.

This denunciation shall only become operative in respect to the power which has given it.

In faith whereof the plenipotentiaries have signed the present convention and affixed their seals thereto.

Done at Geneva, the sixth day of July, one thousand nine hundred and six, in a single copy, which shall remain in the archives of the Swiss Confederation and certified copies of which shall be delivered to the contracting parties through diplomatic channels.

(Signatures)⁴⁹

⁴⁹ U. S. Statutes, 1907 and 1908, Part II, 251

CHAPTER VIII

OTHER RECENT GENERAL WELFARE CONVENTIONS

At a conference held in Washington in 1907 by plenipotentiaries of the Central American States of Costa Rica, Salvador, Guatemala, Honduras, and Nicaragua, at which Representatives of the United States and Mexico were present, eight Treaties were signed to regulate the relations of these Central American Republics to each other. Perhaps the most important of these Conventions is one providing for the establishment of a Central American Court of Justice with full jurisdiction of all controversies between the States. The powers of the Court are defined as follows:

"Article I. The High Contracting Parties agree by the present Convention to constitute and maintain a permanent tribunal, which shall be called the "Central American Court of Justice," to which they bind themselves to submit all controversies or questions which may arise among them, of whatsoever nature and no matter what their origin may be, in case the respective Departments of Foreign Affairs should not have been able to reach an understanding."

This treaty differs from the Arbitration Treaties entered into between other nations in the very important particular that it gives the Court jurisdiction of controversies involving the "vital interests, the independence, or the honor" of the parties, as well as those "of a legal nature or relating to the interpretation of treaties." The other treaties are designed to promote good relations among the States, but without yielding their separate sovereignty in other respects.¹

A Convention was concluded between all the American Republics except Venezuela, Hayti, and the Dominican Republic, at Rio de Janeiro August 13, 1906, establishing the status of naturalized citizens who again take up their residence in the

¹ Senate Documents, 2d Session, 61st Congress, 48, 2399.

country of their origin, restoring them to citizenship in the country of their nativity after returning with intent to remain, and presuming such intent after a residence of two years.²

Another Convention was also signed at the same place on August 23, 1906, by Representatives of all the American Republics except Venezuela and Hayti providing for the establishment of an international Commission of Jurists, with duties prescribed as follows:

"Article 1. There shall be established an international Commission of Jurists, composed of one representative from each of the signatory States, appointed by each of their respective Governments, which Commission shall meet for the purpose of preparing a draft of a Code of Private International Law and one of Public International Law, regulating the relations between the Nations of America. Two or more Governments may appoint a single representative, but such representative shall have but one vote."³

This Convention does not purport to confer legislative powers on the Commission, or even the powers of plenipotentiaries to make a treaty subject to ratification by the governments, but only to make drafts to be submitted to their governments.

A Convention was signed at Paris May 4, 1910, by Representatives of fourteen European States, the United States and Brazil for the repression of the circulation of obscene publications of which the following is a copy.

ARRANGEMENT RELATIVE TO THE REPRESSION OF THE CIRCULATION OF OBSCENE PUBLICATIONS

The Governments of the Powers hereinbelow named, equally desirous of facilitating within the scope of their respective legislation, the mutual interchange of information with a view to tracing and repressing offences connected with obscene publications, have resolved to conclude an agreement to that end and have, in consequence, designated their plenipotentiaries who met in conference at Paris from April 18 to May 4, 1910, and agreed on the following provisions:

² Senate Documents, 3rd Session 62nd Congress, 10, 125.

³ Id. 129.

Article 1. Each one of the Contracting Powers undertakes to establish or designate an authority charged with the duty of

(1) Centralizing all information which may facilitate the tracing and repressing of facts constituting infringements of their municipal law as to obscene writings, drawings, pictures or articles, and the constitutive elements of which bear an international character.

(2) Supplying all information tending to check the importation of publications or articles referred to in the foregoing paragraph and also to insure or expedite their seizure all within the scope of municipal legislation.

(3) Communicating the laws that have already been or may subsequently be enacted in their respective States in regard to the object of the present Arrangement.

The Contracting Governments shall mutually make known to one another, through the Government of the French Republic, the authority established or designated in accordance with the present Article.

Art. 2. The authority designated in Article 1 shall be empowered to correspond directly with the like service established in each one of the other Contracting States.

Art. 3. The authority designated in Article 1 shall be bound, if there be nothing to the contrary in the municipal law of its country, to communicate bulletins of the sentences passed in said country to the similar authorities of all the other Contracting States in case of offences coming under Article 1.

Art. 4. Non-Signatory States shall be permitted to adhere to the present arrangement. They shall notify their intention to that effect by means of an instrument which shall be deposited in the archives of the Government of the French Republic. The said Government shall send through diplomatic channel a certified copy of the said instrument to each of the Contracting States and shall at the same time apprise them of the date of deposit.

Six months after that date the Arrangement shall go into effect throughout the territory of the adhering State which will thereby become a Contracting State.

The remaining articles numbered 5 to 8 are in the usual form for general conventions. It is signed by fourteen of the leading nations and bears date at Paris May 4, 1910.⁴

INTERNATIONAL AMERICAN CONFERENCES

Four conferences of the American Republics for the consideration of the affairs of the Western Hemisphere have been held. The first was convened at Washington on October 2, 1889, on the invitation of the United States, and was attended

⁴ Senate Documents, 3d Session 62nd Congress, 10, 133.

by representatives of Mexico, Haiti, and all the states of Central and South America. Subsequent conferences were held at the city of Mexico in October, 1901 to January, 1902, and in Rio de Janeiro in July, 1906. A fourth conference was held at Buenos Aires at which all the American nations except Bolivia were represented, at which the four following conventions were signed by the delegates of the twenty American republics. These conventions evidence the advancing sentiment of all the Americas on the subject of international relations and are as follows:

PECUNIARY CLAIMS CONVENTION

Their Excellencies the Presidents of the United States of America, Argentine Republic, Brazil, Chile, Colombia, Costa Rica, Cuba, Dominican Republic, Ecuador, Guatemala, Haiti, Honduras, Mexico, Nicaragua, Panama, Paraguay, Peru, Salvador, Uruguay and Venezuela;

Being desirous that their respective countries may be represented at the Fourth International American Conference have sent the following delegates, duly authorized to approve the recommendations, resolutions, conventions, and treaties which may be advantageous to the interests of America;

(Here follows a list of the names of all the delegates)

Who, after having presented their credentials and the same having been found in due and proper form, have agreed upon the following Convention on Pecuniary Claims:

First. The High Contracting Parties agree to submit to arbitration all claims for pecuniary loss or damage which may be presented by their respective citizens and which cannot be amicably adjusted through diplomatic channels, when said claims are of sufficient importance to warrant the expense of arbitration.

The decision shall be rendered in accordance with the principles of international law.

Second. The High Contracting Parties agree to submit to the decision of the permanent Court of Arbitration of The Hague all controversies which are the subject matter of the present treaty, unless both parties agree to constitute a special jurisdiction.

If a case is submitted to the Permanent Court of The Hague, the High Contracting Parties accept the provisions of the treaty relating to the organization of that arbitral tribunal, to the procedure to be followed, and to the obligation to comply with the sentence.

Third. If it shall be agreed to constitute a special jurisdiction, there shall be prescribed in the convention by which this is determined the rules according to which the tribunal shall proceed, which shall have cognizance

of the questions involved in the claims referred to in article 1 of the present treaty.

Fourth. The present treaty shall come into force immediately after the 31st of December, 1912, when the treaty on pecuniary claims, signed at Mexico on January 31, 1902, and extended by the treaty signed at Rio de Janeiro on August 13, 1916, expires.

It shall remain in force indefinitely, as well for the nations which shall then have ratified it as those which shall ratify it subsequently.

The ratifications shall be transmitted to the Government of the Argentine Republic, which shall communicate them to the other contracting parties.

Fifth. Any of the nations ratifying the present treaty may denounce it, on its own part, by giving two year's notice in writing, in advance, of its intention so to do.

This notice shall be transmitted to the Government of the Argentine Republic and through its intermediation to the other contracting parties.

Sixth. The treaty of Mexico shall continue in force after December 31, 1912, as to any claims which may, prior to that date, have been submitted to arbitration under its provisions.

In witness whereof the plenipotentiaries and delegates sign this convention and affix to it the seal of the Fourth International American Conference.

Made and signed in the city of Buenos Aires, on the 11th day of August, in the year 1910, in the Spanish, English, Portuguese, and French languages, and filed in the ministry of foreign affairs of the Argentine Republic, in order that certified copies may be taken to be forwarded through the appropriate diplomatic channels to each one of the signatory nations.

(Signatures)⁵

CONVENTION CONCERNING LITERARY AND ARTISTIC COPYRIGHT

(Introductory recitals omitted)

First. The signatory States acknowledge and protect the rights of literary and artistic property in conformity with the stipulations of the present convention.

Second. In the expression "literary and artistic works" are included books, writings, pamphlets of all kinds, whatever may be the subject of which they treat, and whatever the number of their pages; dramatic or dramatico-musical works; choreographic and musical compositions, with or without words; drawings, paintings, sculpture, engravings; photographic works; astronomical or geographical globes; plans, sketches or plaster works relating to geography, geology or topography, architecture or any other science; and, finally, all productions that can be published by any means of impression or reproduction.

⁵ Senate Documents, 3rd Session 62nd Congress, 10, 345.

Third. The acknowledgement of a copyright obtained in one state, in conformity with its laws, shall produce its effects of full right, in all the other states, without the necessity of complying with any other formality, provided always there shall appear in the work a statement that indicates the reservation of the property right.

Fourth. The copyright of a literary or artistic work, includes for its author or assigns the exclusive power of disposing of the same, of publishing, assigning, translating, or authorizing its translation and reproducing it in any form whether wholly or in part.

Fifth. The author of a protected work, except in case of proof to the contrary, shall be considered the person whose name or well known nom de plume is indicated therein; consequently suit brought by such author or his representative against counterfeiters or violators, shall be admitted by the courts of the signatory states.

Sixth. The authors or their assigns, citizens or domiciled foreigners, shall enjoy in the signatory countries the rights that the respective laws accord, without those rights being allowed to exceed the term of protection granted in the country of origin.

For works comprising several volumes that are not published simultaneously, as well as for bulletins, or parts, or periodical publications, the term of the copyright will commence to run, with respect to each volume, bulletin, part, or periodical publication, from the respective date of its publication.

Seventh. The country of origin of a work will be deemed that of its first publication in America, and if it shall have appeared simultaneously in several of the signatory countries, that which fixes the shortest period of protection.

Eighth. A work which was not originally copyrighted shall not be entitled to copyright in subsequent editions.

Ninth. Authorized translations shall be protected in the same manner as original works.

Translators of works concerning which no right of guaranteed property exists, or the guaranteed copyright of which may have been extinguished, may obtain for their translations the rights of property set forth in article 3, but they shall not prevent the publication of other translations of the same work.

Tenth. Addresses or discourses delivered or read before deliberative assemblies, courts of justice, or at public meetings, may be printed in the daily press without the necessity of any authorization, with due regard, however, to the provisions of the domestic legislation of each nation.

Eleventh. Literary, scientific, or artistic writings, whatever may be their subjects, published in newspapers or magazines, in any one of the countries of the union, shall not be reproduced in the other countries without the consent of the authors. With the exception of the works mentioned, any article in a newspaper may be reprinted by others, if it has not been expressly prohibited, but in every case the source from which it is taken must be cited.

News and miscellaneous items published merely for general information do not enjoy protection under this convention.

Twelfth. The reproduction of extracts from literary or artistic publications for the purpose of instruction or chrestomathy, does not confer any right of property, and may therefore be freely made in all the signatory countries.

Thirteenth. The indirect appropriation of unauthorized parts of a literary or artistic work, having no original character, shall be deemed an illicit reproduction, in so far as affects civil liability.

The reproduction of any form of an entire work, or of the greater part thereof, accompanied by notes or commentaries under the pretext of literary criticism or amplification, or supplement to the original work, shall also be considered illicit.

Fourteenth. Every publication infringing a copyright may be confiscated in the signatory countries in which the original work had the right to be legally protected, without prejudice to the indemnities or penalties which the counterfeiters may have incurred according to the laws of the country in which the fraud may have been committed.

Fifteenth. Each of the Governments of the signatory countries, shall retain the right to permit, inspect, or prohibit the circulation, representation, or exhibition of works or productions concerning which the proper authority may have to exercise that right.

Sixteenth. The present convention shall become operative between the signatory States which ratify it three months after they shall have communicated their ratification to the Argentine Government, and it shall remain in force among them until a year after the date when it may be denounced. This denunciation shall be addressed to the Argentine Government and shall be without force except with respect to the country making it.

In witness whereof the plenipotentiaries have signed the present treaty and affixed thereto the seal of the Fourth International American Conference.

Made and signed in the city of Buenos Aires on the 11th day of August in the year 1910, in Spanish, English, Portuguese, and French, and deposited in the ministry of foreign affairs of the Argentine Republic in order that certified copies be made for transmission to each of the signatory nations through the appropriate diplomatic channels.

(Signatures)*

CONVENTION CONCERNING THE PROTECTION OF TRADE-MARKS

(Introductory recitals omitted)

Article 1. The signatory nations enter into this convention for the protection of trade-marks and commercial names.

Art. 2. Any mark duly registered in one of the signatory States shall

* Senate Documents, 3d Session 62nd Congress, 10, 349.

be considered as registered also in the other States of the union, without prejudice to the rights of third persons and to the provisions of the laws of each State governing the same.

In order to enjoy the benefit of the foregoing, the manufacturer or merchant interested in the registry of the mark must pay, in addition to the fees or charges fixed by the laws of the State in which application for registration is first made, the sum of fifty dollars gold, which sum shall cover all the expenses of both bureaus for the international registration in all the signatory States.

Art. 3. The deposit of a trade-mark in one of the signatory States produces in favor of the depositor a right of property for the period of six months, so as to enable the depositor to make the deposit in the other States.

Therefore the deposit made subsequently and prior to the expiration of this period can not be annulled by acts performed in the interval, especially by another deposit, by publication, or by the use of the mark.

Art. 4. The following shall be considered as trade-mark: Any sign, emblem, or especial name that merchants or manufacturers may adopt or apply to their goods or products in order to distinguish them from those of other manufacturers or merchants who manufacture or deal in articles of the same kind.

Art. 5. The following cannot be adopted or used as trade-mark: National, provincial, or municipal flags or coats-of-arms; immoral or scandalous figures; distinctive marks which may have been obtained by others or which may give rise to confusion with other marks; the general classification of articles; pictures or names of persons without their permission; and any design which may have been adopted as an emblem by any fraternal or humanitarian association.

The foregoing provisions shall be construed without prejudice to the particular provisions of the laws of each State.

Art. 6. All questions which may arise regarding the priority of the deposit or the adoption of a trade-mark shall be decided with due regard to the date of the deposit in the State in which the first application was made thereof.

Art. 7. The ownership of a trade-mark includes the right to enjoy the benefits thereof and the right of assignment or transfer in whole or in part of its ownership or its use in accordance with the provisions of the laws of the respective States.

Art. 8. The falsification, imitation, or unauthorized use of a trade-mark, as also the false representation as to the origin of a product, shall be prosecuted by the interested party in accordance with the laws of the State wherein the offense is committed.

For the effects of this article, interested parties shall be understood to be any producer, manufacturer, or merchant engaged in the production, manufacture, or traffic of said product, or in the case of false representa-

tion of origin, one doing business in the locality falsely indicated as that of origin, or in the territory in which said locality is situated.

Art. 9. Any person in any of the signatory States shall have the right to petition and obtain in any of the States, through its competent judicial authority, the annulment of the registration of a trade-mark, when he shall have made application for the registration of that mark, or of any other mark, calculated to be confused, in such State, with the mark in whose annulment he is interested, upon proving.

(a) That the mark the registration whereof he solicits has been employed or used within the country prior to the employment or use of the mark registered by the person registering it or by the persons from whom he has derived title;

(b) That the registrant had knowledge of the ownership, employment, or use in any of the signatory States of the mark of the applicant the annulment whereof is sought prior to the use of the registered mark by the registrant or by those from whom he has derived title;

(c) That the registrant had no right to the ownership, employment, or use of the registered mark on the date of its deposit;

(d) That the registered mark had not been used or employed by the registrant or by his assigns within the term fixed by the laws of the State in which the registration shall have been made.

Art. 10. Commercial names shall be protected in all the States of the Union, without deposit or registration, whether the same form part of a trade-mark or not.

Art. 11. For the purposes indicated in the present convention a union of American Nations is hereby constituted, which shall act through two international bureaux established one in the city of Habana, Cuba, and the other the city of Rio de Janeiro, Brazil, acting in complete accord with each other.

Art. 12. The international bureau shall have the following duties;

1. To keep a register of the certificates of ownership of trade-marks issued by any of the signatory States.

2. To collect such reports and data as relate to the protection of intellectual and industrial property and to publish and circulate them among the nations of the union, as well as to furnish them whatever special information they may need upon this subject.

3. To encourage the study and publicity of the questions relating to the protection of intellectual and industrial property; to publish for this purpose one or more official reviews, containing the full texts or digests of all documents forwarded to the bureaux by the authorities of the signatory States.

The Governments of the said States shall send to the International American Bureaux their official publications which contain the announcements of the registrations of trade-marks, and commercial names, and the grants of patents and privileges as well as the judgments rendered by the respective courts concerning the invalidity of trade-marks and patents.

4. To communicate to the Governments of the union any difficulties or obstacles that may oppose or delay the effective application of this convention.

5. To aid the Governments of the signatory States in the preparation of international conferences for the study of legislation concerning industrial property, and to secure such alterations as it may be proper to propose in the regulations of the union, or in treaties in force to protect industrial property. In case such conferences take place, the directors of the bureaux shall have the right to attend the meetings and there to express their opinions, but not to vote.

6. To present to the Governments of Cuba and of the United States of Brazil, respectively, yearly reports of their labors which shall be communicated at the same time to all the Governments of the other States of the union.

7. To initiate and establish relations with similar bureaux and with the scientific and industrial associations and institutions for the exchange of publications, information, and data conducive to the progress of the protection of industrial property.

8. To investigate cases where trade-marks, designs, and industrial models have failed to obtain the recognition or registration provided for by this convention, on the part of the authorities of any one of the States forming the union, and to communicate the facts and reasons to the Government of the country of origin and to interested parties.

9. To coöperate as agents for each one of the Governments of the signatory states before the respective authorities for the better performance of any act tending to promote or accomplish the ends of this convention.

Art. 13. The bureau established in the city of Habana, Cuba, shall have charge of the registration of trade-marks coming from the United States of America, Mexico, Cuba, Haiti, the Dominican Republic, El Salvador, Honduras, Nicaragua, Costa Rica, Guatemala, and Panama.

The bureau established in the city of Rio de Janeiro shall have charge of the registration of trade-marks coming from Brazil, Uruguay, the Argentine Republic, Paraguay, Bolivia, Chile, Peru, Ecuador, Venezuela, and Colombia.

Art. 14. The two international bureaux shall be considered as one, and for the purpose of the unification of the registrations it is provided:

(a) Both shall have the same books and the same accounts kept under an identical system.

(b) Copies shall be reciprocally transmitted weekly from one to the other of all applications, registrations, communications, and other documents affecting the recognition of the rights of owners of trade-marks.

Art. 15. The international bureaux shall be governed by identical regulations, formed with the concurrence of the Governments of the

Republic of Cuba and the United States of Brazil and approved by all the other signatory States.

Their budgets, after being sanctioned by the said Governments, shall be defrayed by all the signatory States in the same proportion as that established by the International Bureau of the American Republics at Washington, and in this particular they shall be placed under the control of those Governments within whose territory they are established.

The international bureaux may establish such rules of practice and procedure, not inconsistent with the terms of this convention, as they may deem necessary and proper to give effect to its provisions.

Art. 16. The Governments of the Republic of Cuba and of the United States of Brazil shall proceed with the organization of the Bureaux of the International Union as herein provided, upon the ratification of this convention by at least two-thirds of the nations belonging to each group.

The simultaneous establishment of both bureaux shall not be necessary; one only may be established if there be the number of adherent governments provided for above.

Art. 17. The treaties on trade-marks previously concluded by and between the signatory States, shall be substituted by the present convention from the date of its ratification, as far as the relations between the signatory States are concerned.

Art. 18. The ratifications or adhesions of the American States to the present convention shall be communicated to the Government of the Argentine Republic, which shall lay them before the other States of the union. These communications shall take the place of an exchange of ratifications.

Art. 19. Any signatory State that may see fit to withdraw from the present convention shall so notify the Government of the Argentine Republic, which shall communicate this fact to the other States of the union, and one year after the receipt of such communication this convention shall cease with regard to the State that shall have withdrawn.

In witness whereof the plenipotentiaries and delegates sign this convention and affix to it the seal of the Fourth International American Conference.

Made and signed in the city of Buenos Aires, on the 20th day of August, in the year 1910, in Spanish, English, Portuguese, and French, and filed in the Ministry of Foreign Affairs of the Argentine Republic in order that certified copies may be made, to be forwarded through appropriate channels to each one of the signatory nations.

(Signatures)⁷

CONVENTION RELATING TO INVENTIONS, PATENTS, DESIGNS, AND INDUSTRIAL MODELS

Article 1. The subscribing nations enter into this convention for the protection of patents of invention, designs, and industrial models.

⁷ Senate Documents, 3d Session 62nd Congress, 10, 345.

Art. 2. Any person who shall obtain a patent of invention in any of the signatory States shall enjoy in each of the other States all the advantages which the laws relative to patents of invention, designs, and industrial models concede. Consequently, they shall have the right to the same protection and identical legal remedies against any attack upon their rights provided they comply with the laws of each State.

Art. 3. Any person who shall have regularly deposited an application for a patent of invention or design or industrial model in one of the contracting States shall enjoy, for the purposes of making the deposit in the other States and under the reserve of the rights of third parties, a right of priority during a period of twelve months for patents of invention, and of four months for designs or industrial models.

In consequence the deposits subsequently made in any other of the signatory States before the expiration of these periods can not be invalidated by acts performed in the interval, especially by other deposits, by the publication of the invention or its working, or by the sale of copies of the design or of the model.

Art. 4. When, within the terms fixed, a person shall have filed applications in several States for the patent of the same invention, the rights resulting from patents thus applied for shall be independent of each other.

They shall also be independent of the rights arising under patents obtained for the same invention in countries not parties to this convention.

Art. 5. Questions which may arise regarding the priority of patents of invention shall be decided with regard to the date of the application for the respective patents in the countries in which they are granted.

Art. 6. The following shall be considered as inventions: A new manner of manufacturing industrial products, a new machine or mechanical or manual apparatus which serves for the manufacture of said products, the discovery of a new industrial product, the application of known methods for the purpose of securing better results, and every new, original, and ornamental design or model for an article of manufacture.

The foregoing shall be understood without prejudice to the laws of each State.

Art. 7. Any of the signatory States may refuse to recognize patents for any of the following causes:

(a) Because the inventions or discoveries may have been published in any country prior to the date of the invention by the applicant.

(b) Because the inventions have been registered, published or described in any country more than one year prior to the date of the application in the country in which the patent is sought.

(c) Because the inventions have been in public use, or have been on sale in the country in which the patent has been applied for, one year prior to the date of said application.

(d) Because the inventions or discoveries are in some manner contrary to morals or laws.

Art. 8. The ownership of a patent or invention comprises the right to enjoy the benefits thereof, and the right to assign or transfer it in accordance with the laws of the country.

Art. 9. Persons who incur civil or criminal liabilities, because of injuries or damage to the rights of inventors, shall be prosecuted and punished in accordance to the laws of the countries wherein the offense has been committed or the damage occasioned.

Art. 10. Copies of patents certified in the country of origin, according to the national law thereof, shall be given full faith and credit as evidence of the right of priority, except as stated in Article 7.

Art. 11. The treaties relating to patents of invention, designs, or industrial models, previously entered into between the countries subscribing to the present convention, shall be superseded by the same from the time of its ratification in so far as the relations between the signatory States are concerned.

Art. 12. The adhesion of the American Nations to the present convention shall be communicated to the Government of the Argentine Republic in order that it may communicate them to the other States. These communications shall have the effect of an exchange of ratifications.

Art. 13. A signatory nation that sees fit to retire from the present convention shall notify the Government of the Argentine Republic, and one year after the receipt of the communication the force of this convention shall cease, in so far as the nation which shall have withdrawn its adherence is concerned.

In witness whereof, the plenipotentiaries have signed the present treaty and affixed thereto the seal of the Fourth International American Conference.

Made and signed in the city of Buenos Aires on the 20th day of August in the year 1910, in Spanish, English, Portuguese, and French, and deposited in the ministry of foreign affairs of the Argentine Republic, in order that certified copies be made for transmission to each of the signatory nations through the appropriate diplomatic channels.

(Signatures)⁸

The Hague convention on the subject of the enforcement of contract debts is merely an agreement not to resort to armed force for the collection of them unless the debtor nation refuses to arbitrate or to comply with an award. The convention between the American Republics on the subject goes much farther and provides for the submission to The Hague Tribunal of all claims for pecuniary loss or damage which cannot be settled by diplomacy and involve a sufficient amount to

⁸ Senate Documents, 3d Session 62nd Congress, 10, 362.

warrant the expense, unless the parties agree on another tribunal for the arbitration of the dispute. No preliminary treaty on the subject appears to be necessary, this convention binding all the American republics to submit their money demands to arbitration and adopting The Hague Tribunal as the court of arbitration and accepting the procedure prescribed by the Hague Convention for the Settlement of International disputes. The other conventions provide in effect for a union of all the American states for the protection of the rights of authors, artists, inventors, manufacturers and merchants and accord the citizens of each nation the same rights in all the countries that their laws accord to their own citizens under like conditions. The absence of the word "subject" from the treaties is noticable, these republics having no subjects. Another feature of the convention concerning pecuniary claims is that it is designed to be a continuing agreement and does not expire by any limitation contained in it, though any party may be relieved from future obligation to abide by it by denouncing it, but this denunciation does not affect the operation of it as to the other states. The convention relating to copyrights gives full protection to authors and their assigns throughout both continents without any additional formalities after the copyright has been secured in the country of origin. For the purposes of this treaty America is one country, except as the laws of the various nations differ in the protection afforded to authors of their own country. This convention also by its terms remains in force until a year after it is denounced. The last two of the above conventions do not in express terms provide that they are to continue until denounced, but contain no limitation of time at which they are to expire and are therefore like ordinary legislation in force until repealed. The fields covered by these last two are covered by a subsequent convention concluded at Washington on June 2, 1911, which is designed to be continuing in its operation and is open to the adhesion of all the nations of the earth. The first general convention on the subject of industrial property was signed at Paris on March 20, 1883,⁹ to the final Protocol of which an

⁹ Senate Documents, 2nd Session 61st Congress, 48, 1935.

amendment was concluded at Madrid on April 15, 1891.¹⁰ An additional Act was signed at Brussels on December 14, 1900.¹¹ The convention of June 2, 1911, was designed to modify and add to the prior ones and is as follows:

INDUSTRIAL PROPERTY CONVENTION

Article 1. The contracting countries constitute a state of Union for the protection of industrial property.

Art. 2. The subjects or citizens of each of the contracting countries shall enjoy, in all the other countries of the Union, with regard to patents of invention, models of utility, industrial designs or models, trade-marks, trade names, the statements of place of origin, suppression of unfair competition, the advantages which the respective laws now grant or may hereafter grant to the citizens of that country. Consequently, they shall have the same protection as the latter and the same legal remedies against any infringements of their rights, provided they comply with the formalities and requirements imposed by the National laws of each State upon its own citizens. Any obligation of domicile or of establishment in the country where the protection is claimed shall not be imposed on the members of the Union.

Art. 3. The subjects or citizens of countries which do not form part of the Union, who are domiciled or own effective and bona fide industrial or commercial establishments in the territory of any of the countries of the Union, shall be assimilated to the subjects or citizens of the contracting countries.

Art. 4. (a) Any person who shall have duly filed an application for a patent, utility model, industrial design or model, or trademark, in one of the contracting countries, or the successor or assignee of such person shall enjoy, for the purpose of filing application in the other countries, and subject to the rights of third parties, a right of priority during the periods hereinafter specified.

(b) Consequently, the subsequent filing in one of the other countries of the Union, prior to the expiration of such periods, shall not be invalidated by acts performed in the interval, especially by another application, by publication of the invention or the working of the same, by the sale of copies of the design or model, nor by the use of the mark.

(c) The periods of priority above referred to shall be twelve months for patents and models of utility and four months for industrial designs and models as also for trademarks.

(d) Whoever shall wish to avail himself of the priority of an anterior filing, shall be required to make a declaration showing the date and the country of this filing. Each country shall determine at what moment, at

¹⁰ Id. 48. 1943.

¹¹ Id. 48. 1945.

the latest, this declaration shall be executed. This information shall be mentioned in the publications issued by the competent Administration, particularly on patents and the specifications relative thereto. The contracting countries shall require of one who makes a declaration of priority the production of a copy of the application (specifications, drawings, etc.) previously filed, certified to be a true copy by the Administration which shall have received it. This copy shall be dispensed from any legalization. It may be required that it be accompanied by a certificate of the date of filing, issuing from this Administration, and of a translation. Other formalities shall not be required for the declaration of priority at the time of filing the application. Each contracting country shall determine the consequences of the omission of the formalities prescribed by the present article, unless these consequences exceed the loss of the right of priority.

(e) Later other justifications can be demanded.

Art. 4½. Patents applied for in the different contracting countries by persons admitted to the benefit of the Convention in the terms of Articles 2 and 3, shall be independent of the patents obtained for the same invention in the other countries, adherent or not to the Union.

This provision shall be understood in an absolute manner, particularly in the sense that the patents applied for during the term of priority are independent, as much from the point of view of the causes of nullity and of forfeiture as from the point of view of the normal duration.

It applies to all patents existing at the time of entrance into force.

It shall be likewise, in case of accession of new countries, for patents existing on both sides at the time of accession.

Art. 5. The importation by the patentee, into the country where the patent has been granted, of articles manufactured in any of the countries of the Union shall not entail forfeiture.

However, the patentee shall be obliged to work his patent according to the laws of the country into which he introduces the patented objects, but with the restriction that the patents shall not be liable to forfeiture because of non-working in one of the countries of the Union until after a term of three years, from the date of the filing of the application in that country, and only in case the patentee shall fail to show sufficient cause for his inaction.

Art. 6. Every trademark regularly registered in the country of origin shall be admitted to registration and protected as that in the other countries of the Union.

However, there may be refused or invalidated:

1. Marks which are of a nature to infringe rights acquired by third parties in the country where protection is claimed.

2. Marks devoid of all distinctive character, or even composed exclusively of signs or data which may be used in commerce, to designate the kind, quality, quantity, destination, value, place of origin of the products

or the time of production, or become common in the current language or the legal and steady customs of commerce of the country where the protection is claimed.

In the estimation of the distinctive character of a mark, all the circumstances existing shall be taken into account, particularly the duration of the use of the mark.

3. Marks which are contrary to morals or public order.

The country where the applicant has his principal establishment shall be considered as the country of origin.

Art. 7. The nature of the product on which the trademark is to be applied cannot, in any case, be an obstacle to the filing of the mark.

Art. 7½. The contracting countries agree to admit for filing and to protect marks belonging to associations the existence of which is not contrary to the law of the country of origin, even if these associations do not possess an industrial or commercial establishment.

Each country shall be judge of the special conditions under which an association may be admitted to have the marks protected.

Art. 8. Trade names shall be protected in all the countries of the Union without the obligation of filing, whether it be a part or not of a trademark.

Art. 9. Any product bearing illegally a trade-mark or a trade name shall be seized at importation in those of the countries of the Union in which this mark or this trade name may have a right to legal protection.

If the laws of a country do not admit of seizure on importation, the seizure shall be replaced by prohibition of importation.

The seizure shall be likewise effected in the country where illegal affixing shall have been made, or in the country into which the product shall have been imported.

The seizure shall be made at the request of the public ministry, or any other competent authority, or by an interested party, individual or society, in conformity to the interior laws of each country.

The authorities shall not be required to make the seizure in transit.

If the laws of a country admit neither of a seizure on importation nor the prohibition of importation, nor seizure in said country, these measures shall be replaced by the acts and means which the law of such country would assure in like case to its own citizens.

Art. 10. The provisions of the preceding article shall be applicable to any product bearing falsely, as indication of the place of production, the name of a definite locality, when this indication shall be joined to a fictitious or borrowed trade name with an intention to defraud.

The interested party is considered any producer, manufacturer or merchant, engaged in the production, manufacture or commerce of such product, and established either in the locality falsely indicated as place of production or in the region where this locality is situated.

Art. 10½. All the contracting countries agree to assure to the members of the Union an effective protection against unfair competition.

Art. 11. The contracting countries shall accord, in conformity with their national laws, a temporary protection to patentable inventions, working models, industrial models or designs, as well as to trademarks, for products exhibited at international expositions, official or officially recognized, organized in the territory of one of them.

Art. 12. Each of the contracting countries agrees to establish a special service for Industrial Property and a central office for the communication to the public of patents, working models, industrial models for designs and trademarks.

This service shall publish, as often as possible, an official periodical.

Art. 13. The international Office instituted at Berne under the name of "Bureau international pour la protection de la Propriété industrielle" is placed under the high authority of the Government of the Swiss Confederation, which regulates its organization and supervises its operation.

The international Bureau shall centralize information of any nature relative to the protection of industrial property, and form it in a general statistical report which shall be distributed to all Administrations. It shall proceed to considerations of common utility interesting to the Union and shall edit, with the aid of the documents put at its disposal by the different Administrations, a periodical in the French language on questions concerning the object of the Union.

Numbers of this periodical, like all the documents published by the international Bureau, shall be distributed among the Administrations of the countries of the Union, in proportion to the number of contributive units mentioned below. Copies and supplementary documents which shall be requested, either by the Administrations, or by societies or individuals, shall be paid for separately.

The international Bureau shall hold itself at all times at the disposition of the members of the Union, to furnish them special information of which they may have need, on the questions relative to the international service of industrial property. It shall make an annual report of its management which shall be communicated to all the members of the Union.

The official language of the international Bureau shall be French.

The expense of the international Bureau shall be borne in common by the contracting countries. They may not, in any case, exceed the sum of sixty thousand francs per year.

In order to determine the contributive part of each of the countries in this sum total of the expenses, all the contracting countries and those which later join the Union shall be divided into six classes, each contributing in proportion to a certain number of units, to-wit:

Class 1—	Units: 25
Class 2—	" 20
Class 3—	" 15
Class 4—	" 10
Class 5—	" 5
Class 6—	" 3

These coefficients shall be multiplied by the number of countries of each class, and the sum of the products thus obtained shall furnish the number of units by which the total expenses are to be divided. The quotient shall give the amount of the unit of expense.

Each of the contracting countries shall designate at the time of its accession, the class in which it wishes to be ranked.

The Government of the Swiss Confederation shall supervise the expenses of the international Bureau, make necessary advances and draw up annual statements of accounts which shall be communicated to all the other Administrations.

Art. 14. The present Convention shall be submitted to periodical revisions with a view to introducing improvements in it of a nature to perfect the system of the Union.

To this end conferences of the delegates of the contracting countries shall be held successively in one of the said countries.

The Administration of the country where the Conference is to be held shall prepare, with the concurrence of the international Bureau the works of such Conference.

The Director of the international Bureau will assist at the meetings of the Conference and take part in the discussions without a vote.

Art. 15. It is understood that the contracting countries reserve to themselves respectively the right to make separately, between themselves, special arrangements for the protection of industrial property, in so far as these arrangements may not interfere with the provisions of the present Convention.

Art. 16. The countries which have not taken part in the present Convention shall be permitted to adhere to it upon their request.

Notice of adhesion shall be made through diplomatic channels to the Government of the Swiss Confederation, and by the latter to all the others.

It shall entail complete adhesion to all the clauses and admission to all the advantages stipulated by the present Convention, and shall take effect one month after the notification made by the Government of the Swiss Confederation to the other unionist countries, unless a later date shall have been indicated by the adhering country.

Art. 16½. The contracting countries have the right to adhere at any time to the present Convention for their colonies, possessions, dependencies and protectorates, or for certain ones of them.

They may, to this end, either make a general declaration by which all their colonies, possessions, dependencies and protectorates are included in the adherence, or expressly name those included therein, or simply indicate those excluded from it.

This declaration shall be made in writing to the Government of the Swiss Confederation and by the latter made to all the others.

The contracting countries can, under like conditions, renounce the Convention for their colonies, possessions, dependencies, and protectorates, or for certain ones of them.

Art. 17. The fulfillment of the reciprocal obligations contained in the present Convention is subordinated, in so far as need be, to compliance with the formalities and regulations established by the constitutional laws of those of the contracting countries which are bound to secure the application of the same which they engage to do with the least possible delay.

Art. 17½. The Convention shall remain in force an indefinite time, until the expiration of one year from the day when the renunciation shall be made.

This renunciation shall be addressed to the Government of the Swiss Confederation. It shall affect only the country giving such notice, the Convention remaining operative as to the other contracting countries.

Art. 18. The present Act shall be ratified, and the ratifications filed in Washington, at the latest, April 1, 1913. It shall be put into execution among the countries which shall have ratified it, one month after the expiration of this period of time.

This Act, with its final Protocol, shall replace, in the relations of the countries which shall have ratified it: the Convention of Paris, March 20, 1883; the Final Protocol annexed to that act; The Protocol of Madrid, April 15, 1891 relating to the dotation of the international Bureau, and the additional act of Brussels, December 14, 1900. However the Acts cited shall remain binding on the countries which shall not have ratified the present Act.

Art. 19. The present Act shall be signed in a single copy, which shall be filed in the archives of the Government of the United States. A certified copy shall be sent by the latter to each of the unionist Governments.

In Witness Whereof, the respective plenipotentiaries have signed the present Act.

Done at Washington, in a single copy, this second day of June, 1911.

(Signatures)¹²

FINAL PROTOCOL

At the time of proceeding to the signing of the Act concluded on this day, the undersigned Plenipotentiaries are agreed upon the following:

Ad Article 1. The words "Propriete industrielle" (Industrial Property) shall be taken in their broadest acceptation; they extend to all production in the domain of agricultural industries (wines, grains, fruits, animals, etc.), and extractives (minerals, mineral waters, etc.).

Ad Art. 2. (a) Under the name of patents are comprised the different kinds of industrial patents admitted by the laws of the contracting countries, such as patents of importation, patents of improvement, etc., for the processes as well as for the products.

(b) It is understood that the provision in Article 2 which dispenses the members of the Union from obligation of domicile and of establish-

¹² Senate Documents, 3rd Session 62nd Congress, 10-367.

ment has an interpretable character and must, consequently, be applied to all the rights granted by the Convention of March 20, 1883, before the entrance into force of the present Act.

(e) It is understood that the provisions of Article 2 do not infringe the laws of each of the contracting countries, in regard to the procedure followed before their courts and the competency of those courts, as well as the election of domicile or the declaration of the selection of an attorney required by the laws on patents, working models, marks, etc.

Ad Art. 4. It is understood that, when an industrial model or design shall have been filed in a country by virtue of the right of priority based on the filing of a working model, the term of priority shall be only that which Article 4 has fixed for industrial models and designs.

Ad Art. 6. It is understood that the provisions of the first paragraph of Article 6 do not exclude the right to require of the depositor a certificate of regular registration in the country of origin, issued by competent authority.

It is understood that the use of badges, insignia or public decorations which shall not have been authorized by competent powers, or the use of official signs and stamps of control and of guaranty adopted by a unionist country, may be considered as contrary to public order in the sense of No. 3 of Article 6.

However, marks, which contain, with the authorization of competent powers, the reproduction of badges, decorations or public insignia, shall not be considered as contrary to public order.

It is understood that a mark shall not be considered as contrary to public order for the sole reason that it is not in conformity with some provisions of laws on marks, except in the case where such provision itself concerns public order.

The present Final Protocol, which shall be ratified at the same time as the Act concluded on this day, shall be considered as forming an integral part of this Act, and shall be of like force, value and duration.

In Witness Whereof; the respective plenipotentiaries have signed the present Protocol.

Done at Washington, in a single copy, June 2, 1911.

(Signatures)¹⁸

The foregoing convention illustrates how rapidly international legislation is being assimilated to that of state legislatures. The subject of the convention has been considered and amended by successive conferences beginning with that of 1883. Prior to that time the subjects of patents, models and trademarks had been dealt with in separate treaties between two nations of which great numbers had been made. The

¹⁸ Senate Documents, 3d Session 62nd Congress, 10, 367.

advantages of general legislation on the subject are obvious. The foregoing convention renders the treaty obligations of Germany, Austria-Hungary, Belgium, Brazil, Cuba, Denmark, the Dominican Republic, Spain, United States, France, Great Britain, Italy, Japan, Mexico, Norway, the Netherlands, Portugal, Servia, Sweden and Switzerland to each other in respect to the matters covered by the convention uniform and continuing until a party sees fit to withdraw. This any nation may do without impairing the obligations of the other parties. Any other nation desiring to become a party may do so simply by giving notice of its adherence. Article 14 provides for periodical revisions of the convention with a view to its improvement. Much may be said in favor of this method of making international law. The plenipotentiaries who meet, agree on, and sign the convention do not absolutely bind any nation. The draft is tentative until ratified by the governments they represent. It must undergo the criticism of the proper departments of each government and has no force but the intrinsic merits of its provisions. Acceptance of it is voluntary and may be withdrawn at pleasure by giving the prescribed notice. In the consultations of the delegates who formulate the convention there is opportunity for the utmost freedom in the exchange of views, but a manifest necessity for considerate treatment of every proposition advanced by any delegate. The body may determine differences of opinion by a majority of votes, but the final result must be like the verdict of an English jury, unanimous, for no plenipotentiary can be forced to agree to anything. A most important advantage in the method of formulating treaties by a separate body considering one subject only is that the plenipotentiaries can be chosen from men especially versed in the subject under consideration. The Congress of the United States and the state legislatures deal with a great variety of subjects all at the same time. Even the committees to whom the various bills are referred often have a mass of matters for consideration on subjects as to which they have no special knowledge or qualifications to judge. The legislative body as a whole passes on measures in great numbers as to which a large part of the

membership are in no position to form an independent judgment. It is not surprising that we have crude legislation, but rather that we do not have more of it. A body of experts representing many leading nations meeting and conferring for the single purpose of formulating a law covering a definite limited field would seem to be very nearly an ideal law-making body.

The foregoing convention is somewhat peculiar in that it deals with the rights of the citizens of each country in every other country in dealing with the citizens of that country. Its purpose is to extend a uniform law for the protection of the inventor in his invention, the manufacturer in his product, and the merchant in the commodities in which he deals, in all the countries alike. The advantages of uniform laws of trade throughout the whole world have long been felt. The merchants, bankers and carriers have been pioneers in this unification of the law, and the name law merchant has been given to those rules of commercial dealings and obligations which are generally accepted as law throughout the civilized world. The provisions of this convention extend this uniformity over the great field of invention to which this age owes so much. The evils sometimes complained of as the result of granting monopolies of inventions are short lived when contrasted with the benefits resulting to the public after the patent expires.

A Sanitary Convention to prevent the spread of the plague and cholera, containing 184 articles, was signed at Paris on December 3, 1903, by representatives of the following countries: Germany, Austria-Hungary, Belgium, Brazil, Spain, United States, France, Great Britain, Greece, Italy, Luxembourg, Montenegro, the Netherlands, Persia, Portugal, Roumania, Russia, Servia, Switzerland and Egypt.

On October 14, 1905, another convention on the same subject and yellow fever also was concluded at Washington by delegates of Chile, Costa Rica, Cuba, Dominican Republic, Ecuador, Guatemala, Mexico, Nicaragua, Peru, United States, and Venezuela.

These conventions were followed by a more full and carefully prepared treaty signed at Paris on January 17, 1912, by pleni-

potentiaries of the following nations: Germany, the United States, the Argentine Republic, Austria-Hungary, Belgium, Bolivia, Brazil, Bulgaria, Chile, Colombia, Costa Rica, Cuba, Denmark, Ecuador, Spain, France, Great Britain, Greece, Guatemala, Haiti, Honduras, Italy, Luxemburg, Mexico, Montenegro, Norway, Panama, the Netherlands, Persia, Portugal, Roumania, Russia, Salvador, Servia, Siam, Sweden, Switzerland, Turkey, Egypt, and Uruguay. A full copy of this convention follows.

INTERNATIONAL SANITARY CONVENTION

Title I—General Provisions

Chapter I. *Rules to be observed by the countries signing the Convention as soon as plague, cholera, or yellow fever appears, in their territory.*

Section I—Notification and subsequent communications to the other countries

Art. 1. Each Government shall immediately notify the other Governments of the first authentic case of plague, cholera, or yellow fever discovered in its territory.

Likewise the first authentic case of cholera, plague, or yellow fever occurring outside the districts already stricken shall constitute the object of an immediate notification to the other Governments.

Art. 2. Every notification as provided in article 1 shall be accompanied or very promptly followed by particulars regarding:

1. The neighborhood in which the disease has appeared;
2. The date of its appearance, its origin, and its form;
3. The number of established cases and the number of deaths;
4. The extent of the area or areas affected;
5. In the case of plague, the existence of plague or an unusual mortality among rats;
6. In the case of yellow fever, the existence of *Stegomyia calopus*;
7. The measures immediately taken.

Art. 3. The notification and the information contemplated in articles 1 and 2 are to be addressed to the diplomatic or consular agencies in the capital of the contaminated country.

In the case of countries not represented there, they shall be transmitted directly by telegraph to the Governments of these countries.

Art. 4. The notification and the information contemplated in articles 1 and 2 shall be followed by subsequent communications sent regularly, so as to keep the Governments informed as to the progress of the epidemic.

These communications which shall be sent at least once a week, and

which shall be as complete as possible, shall state more particularly the precautions taken with a view to preventing the spread of the disease.

They shall specify: (1) The prophylactic measures applied in regard to sanitary or medical inspection, isolation, and disinfection; (2) The measures enforced upon the departure of ships in order to prevent the exportation of the disease and especially, in the cases contemplated under Nos. 5 and 6 of article 2 above, the measures taken respectively against rats and mosquitoes.

Art. 5. The prompt and faithful execution of the foregoing provisions is of prime importance.

The notifications are of no real value unless each Government is itself opportunely informed of cases of plague, cholera, and yellow fever and of doubtful cases occurring in its territory. It cannot therefore be too strongly recommended to the various Governments that they make compulsory the announcement of cases of plague, cholera, and yellow fever and that they keep themselves informed of any unusual mortality among rats, especially in ports.

Art. 6. It is desirable that neighboring countries make special arrangements with a view to organizing a direct information service among the competent heads of departments in matters concerning contiguous territories or those which have close commercial relations.

Section II.—Conditions which warrant considering a territorial area as being contaminated or as having become healthy again.

Art. 7. The notification of a single case of plague, cholera, or yellow fever shall not involve the application, against the territorial area in which it occurred, of the measures prescribed in Chapter II hereinbelow.

However, when several unimportant cases of plague or yellow fever have appeared or when the cholera cases become localized, the area may be considered contaminated.

Art. 8. In order to confine the measures to the stricken regions only, the Governments shall apply them only to arrivals from contaminated areas.

By the word area is meant a portion of territory definitely specified in the particulars which accompany or follow the notification: for instance, a province, a government, a district, a department, a canton, an island, a commune, a city, a quarter of a city, a village, a port, a polder a hamlet, etc., whatever be the area and population of these portions of territory.

However, this restriction to the contaminated area shall only be accepted upon the formal condition that the Government of the contaminated country take the necessary measures: (1) to combat the spread of the epidemic and (2), if it is a question of cholera, to prevent, unless previously disinfected, the exportation of the things mentioned under Nos. 1 and 2 of article 13 and coming from the contaminated area.

When an area is contaminated, no restrictive measures shall be taken against arrivals from such area if such arrivals have left it at least five days before the beginning of the epidemic.

Art. 9. In order that an area may be considered as being no longer contaminated it must be officially stated:

1. That there has neither been a death nor a new case, as regards the plague or cholera for five days, and as regards the yellow fever for eighteen days, either since the isolation or since the death or cure of the last patient;

2. That all measures for disinfection have been applied; besides, if it is a case of plague, that the measures against rats have been executed, and, in case of yellow fever, that the precautions against mosquitoes have been taken.

Section III—Measures in contaminated ports upon the departure of vessels.

Art. 10. The competent authority shall be obliged to take effective measures:

1. To prevent the embarkation of persons showing symptoms of plague, cholera, or yellow fever;

2. In case of plague or cholera, to prevent the exportation of merchandise or any articles which he may consider contaminated and which have not been previously disinfected on land, under the supervision of the physician delegated by the public authority;

3. In case of plague, to prevent the embarkation of rats;

4. In case of cholera, to see that the drinking water taken on board is wholesome;

5. In case of yellow fever, to prevent mosquitoes from coming on board.

Chapter II—*Measures of defense against Contaminated Territories*

Section I—Publication of the Prescribed Measures

Art. 11. The Government of each country shall be obliged to immediately publish the measures which it believes necessary to prescribe with regard to arrivals from a contaminated country or territorial area.

It shall at once communicate this publication to the diplomatic or consular officer of the contaminated country residing in its capital, as well as to the international boards of health.

It shall likewise be obliged to make known, through the same channels, the revocation of these measures or any modification which may be made therein.

In default of a diplomatic or consular office in the capital, the communications shall be made directly to the Government of the country concerned.

Section II—Merchandise—Disinfection—Importation and Transit—Baggage

Art. 12. No merchandise is capable by itself of transmitting plague,

cholera, or yellow fever. It only becomes dangerous when contaminated by plague or cholera products.

Art. 13. Disinfection shall be applied only in case of plague or cholera and only to merchandise and articles which the local health authority considers contaminated.

However in case of plague or cholera, the merchandise and articles enumerated below may be subjected to disinfection or even prohibited entry, independently of any proof that they are or are not contaminated:

1. Body linen, clothing worn (wearing apparel), and bedding which has been used.

When these articles are being transported as baggage or as a result of change of residence (household goods), they shall not be prohibited and are subject to the provisions of article 20.

Packages left by soldiers and sailors and returned to their country after death are treated the same as the articles comprised in the first paragraph of No. 1.

2. Rags (including those for making paper), with the exception, as to cholera, of compressed rags transported as wholesale merchandise in hooped bales.

Fresh waste coming directly from spinning mills, weaving mills, manufactories, or bleacheries: artificial wools (shoddy), and fresh paper trimmings shall not be forbidden.

Art. 14. The transit of the merchandise and articles specified under Nos. 1 and 2 of the preceding articles shall not be prohibited if they are so packed that they can be manipulated en route.

Likewise, when the merchandise or articles are transported in such a manner that it is impossible for them to have been in contact with contaminated articles en route, their transit across an infected territorial area shall not constitute an obstacle to their entry into the country of destination.

Art. 15. The merchandise and articles specified under Nos. 1 and 2 of article 13 shall not be subject to application of the measures prohibiting entry if it is proven to the authorities of the country that they were shipped at least five days before the beginning of the epidemic.

Art. 16. The mode and place of disinfection, as well as the methods to be employed for the destruction of rats, insects, and mosquitos, shall be determined by the authorities of the country of destination. These operations shall be performed in such a manner as to cause the least possible injury to the articles. Clothing, old rags, infected materials for dressing wounds, papers, and other articles of little value may be destroyed by fire.

It shall devolve upon each Nation to determine the question as to the possible payment of damages as a result of the disinfection and destruction of the articles mentioned above and of the destruction of rats, insects, and mosquitos.

If, on the occasion of the taking of measures for the destruction of rats, insects, and mosquitos on board vessels, the health authorities should levy a tax either directly or through a society or private individual, the rate of such tax must be fixed by a tariff published in advance and so calculated that no profit shall be derived by the Nation or the Health Department from its application as a whole.

Art. 17. Letters, and correspondence, printed matter, books, newspapers, business papers, etc., (postal parcels not included) shall not be subjected to any restriction or disinfection.

In case of yellow fever, postal parcels shall not be subjected to any restriction or disinfection.

Art. 18. Merchandise, arriving by land or sea, shall not be detained at frontiers or in ports.

The only measures which it is permissible to prescribe in regard to them are specified in articles 13 and 16 above.

However, if merchandise arriving by sea in bulk or in defective bails has been contaminated during the passage by rats known to be stricken with plague, and if it cannot be disinfected, the destruction of the germs may be insured by storing it in a warehouse for a maximum period of two weeks.

It is understood that the application of this last measure shall not entail any delay upon the vessel or any extra expense as a result of the lack of warehouses in the ports.

Art. 19. When merchandise has been disinfected by applying the provisions of article 13, or temporarily warehoused in accordance with the third paragraph of article 18, the owner or his representative shall be entitled to demand from the health authority who has ordered the disinfection or storage, a certificate setting forth the measures taken.

Art. 20. Soiled linen, clothing, and articles constituting part of baggage or furniture (household goods) coming from a contaminated territorial area shall only be disinfected in cases of plague or cholera and only when the health authorities consider them contaminated.

Section III—Measures in Ports and at Maritime Frontiers

A. Classification of Vessels

Art. 21. A vessel is considered as infected which has plague, cholera, or yellow fever on board, or which has presented one or more cases of plague, cholera, or yellow fever within seven days.

A vessel is considered as suspicious on board of which there were cases of plague, cholera, or yellow fever at the time of departure or have been during the voyage, but on which there have been no new cases within seven days.

A vessel is considered as uninfected which, although coming from an infected port, has had neither death nor any case of plague, cholera, or

yellow fever on board either before departure, during the voyage, or at the time of arrival.

B. Measures concerning Plague

Art. 22. Ships infected with plague shall be subjected to the following measures :

1. Medical inspection.
2. The patients shall be immediately landed and isolated.
3. All persons who have been in contact with the patients and those whom the health authority of the port has reason to consider suspicious shall be landed if possible. They may be subjected either to observation, or to surveillance, or to observation followed by surveillance, and the total duration of these measures shall not exceed five days from the date of arrival.

It is within the discretion of the health authority of the port to apply whichever of these measures appears preferable to him according to the date of the last case, the condition of the vessel, and the local possibilities.

4. The soiled linen, wearing apparel, and other articles of the crew and passengers which are considered by the health authority as being contaminated shall be disinfected.

5. The parts of the vessel which have been occupied by persons stricken with plague or which are considered by the health authority as being contaminated shall be disinfected.

6. The destruction of the rats on the vessel shall take place before or after the discharge of the cargo, avoiding injury to the cargo, the platings, and the engines as far as possible. The operation shall be performed as soon and as quickly as possible, and shall not in any event last over forty-eight hours.

In the case of vessels in ballast, this operation shall be performed as soon as possible before taking on cargo.

Art. 23. Vessels suspected of plague shall be subjected to the measures indicated under Nos. 1, 4, 5, and 6 of article 22.

Moreover, the crew and passengers may be subjected to a surveillance not to exceed five days from the arrival of the vessel. The landing of the crew may be forbidden during the same period except in connection with the service.

Art. 24. Vessels uninfected with plague shall be granted partique immediately, whatever be the nature of their bill of health.

The only measures which the authority of the port of arrival may prescribe with regard to them shall be the following :

1. Medical inspection.
2. Disinfection of the soiled linen, wearing apparel, and other articles of the crew and passengers; but only in exceptional cases when the health authority has special reason to believe that they are contaminated.
4. Although the measure should not be laid down as a general rule, the

health authority may subject vessels coming from a contaminated port to an operation designed to destroy the rats on board, either before or after the discharge of the cargo. This operation should take place as soon and as quickly as possible and should not in any event last more than twenty-four hours, avoiding hindrance to the movements of the passengers and crew between the vessel and the shore and, as far as possible, injury to the cargo, plating, and engines.

The crew and the passengers may be subjected to a surveillance not to exceed five days from the date on which the vessel left the contaminated port. The landing of the crew may also be forbidden during the same time except in connection with the service.

The competent authority of the port of arrival may always demand an affidavit from the ship's physician, or in default of such physician from the captain, to the effect that there has not been a case of plague on the vessel since its departure and that no unusual mortality among the rats has been observed.

Art. 25. When rats have been recognized as plague-stricken on board an uninfected vessel as a result of a bacteriological examination, or when an unusual mortality has been discovered among these rodents, the following measures shall be applied:

I. Vessels with plague-stricken rats:

- a) Medical inspection.
- b) The rats shall be destroyed either before or after the discharge of the cargo, avoiding injury, as far as possible, to the cargo, plating, and engines. On vessels in ballast this operation shall be performed as soon and as quickly as possible and at all events before taking on cargo.
- c) The parts of the vessel and the articles which the health authority considers to be contaminated shall be disinfected.
- d) The passengers and crew may be subjected to a surveillance whose duration shall not exceed five days from the date of arrival.

II. Vessels on which an unusual mortality among rats is discovered:

- a) Medical inspection.
- b) An examination of the rats with regard to the plague shall be made as far and as quickly as possible.
- c) If the destruction of the rats is deemed necessary, it shall take place under the conditions indicated above for vessels with plague-stricken rats.
- d) Until all suspicion is removed, the passengers and crew may be subjected to a surveillance whose duration shall not exceed five days from the date of arrival.

Art. 26. It is recommended that vessels be periodically rid of their rats, the operation to take place at least once every six months. The health officer of the port in which the rat ridding operation is performed shall deliver to the captain, owner, or agent, wherever request is made therefor, a certificate showing the date of the operation, the port where it was performed, and the method employed.

It is recommended that the health authorities of ports at which vessels stop which practice periodical rat ridding keep account of the aforementioned certificate in determining the measures to be taken, especially as regards the provisions of No. 3 of the 2d paragraphs of article 24.

C. Measures concerning Cholera

Art. 27. Vessels infected with cholera shall be subjected to the following measures:

1. Medical inspection.
2. The patients shall be immediately landed and isolated.
3. The other persons shall likewise be landed and subjected, from the date of arrival of the vessel, to an observation or surveillance whose duration shall vary according to the sanitary condition of the vessel and the date of the last case, without, however, exceeding five days; provided this period is not exceeded, the medical authority may proceed to make a bacteriological examination as far as necessary.
4. The soiled linen, wearing apparel, and other articles of the crew and passengers which are considered by the health authority of the port as being contaminated shall be disinfected.
5. The parts of the vessel which have been occupied by cholera patients or which are considered by the health authority as being contaminated shall be disinfected.
6. When the drinking water stored on board is considered suspicious, it shall be turned off, after being disinfected, and replaced if necessary by water of good quality.

The health authority may prohibit turning water ballast off in ports if it has been taken on in a contaminated port, unless it has been previously disinfected.

It may be forbidden to let run or throw human dejections or the residuary waters of the vessel into the waters of the port, unless they are disinfected.

Art. 28. Vessels suspected of cholera shall be subjected to the measures prescribed under Nos. 1, 4, 5, and 6 of article 27.

The crew and passengers may be subjected to a surveillance not to exceed five days from the arrival of the vessel. It is recommended that the landing of the crew be prevented during the same period except for purposes connected with the service.

Art. 29. Vessels uninfected with cholera shall be granted *partique* immediately, whatever be the nature of their bill of health.

The only measures to which they may be subjected by the health authority of the port of arrival shall be those provided under Nos. 1, 4, and 6 of article 27.

The health authority may forbid letting water ballast off in ports if it has been taken on in a contaminated port, unless it has been previously disinfected.

With regard to the state of their health, the crew and passengers may be subjected to surveillance not exceeding five days from the date on which the vessel left the contaminated port.

It is recommended that the landing of the crew be forbidden during the same period except for purposes connected with the service.

The competent authority of the port of arrival may always demand an affidavit from the ship's physician or, in the absence of such, from the captain, to the effect that there has not been a case of cholera on board since the vessel sailed.

D. Measures concerning the Yellow Fever

Art. 30. Vessels infected with yellow fever shall be subjected to the following measures:

1. Medical inspection.
2. The patients shall be landed under such conditions that they will be protected from mosquito bites, and duly isolated.
3. The other persons may likewise be landed and subjected, from the date of arrival, to an observation or surveillance not exceeding six days.
4. Vessels shall anchor, as far as possible, at a distance of 200 meters from the shore.
5. If possible, the mosquito^s on board shall be exterminated before the cargo is discharged. If this is impossible, all necessary measures shall be taken in order that the persons employed in discharging the cargo may not be infected. These persons shall be subjected to a surveillance not to exceed six days from the time they cease to work on board.

Art. 31. Vessels suspected of yellow fever shall be subjected to the measures indicated under Nos. 1, 4 and 5 of the preceding article.

Moreover, the crew and passengers may be subjected to a surveillance not to exceed six days from the date of arrival of the vessel.

Art. 32. Vessels uninfected with yellow fever shall be granted partique immediately after medical inspection, whatever be the nature of their bill of health.

Art. 33. The measures contemplated in articles 30 and 31 do not concern the countries in which *stegomya* exists. In other countries they shall be applied to the extent deemed necessary by the medical authorities.

E. Provisions common to all three Diseases

Art. 34. In applying the measures set forth in articles 22 to 33, the competent authority shall take into account the presence of a physician and of disinfecting apparatuses (chambers) on board the vessels of the three categories mentioned above.

In regard to the plague, he shall likewise take into account the installation on board of apparatus for the destruction of rats.

The health authorities of nations which may deem it suitable to reach an understanding on this point may excuse from the medical inspection

and other measures those uninfected vessels which have on board a physician specially commissioned by their country.

Art. 35. Special measures, especially (as regards cholera) a bacteriological examination, may be prescribed in regard to any vessel in a bad hygienic condition or crowded.

Art. 36. Any vessel not desiring to submit to the obligations imposed by the port authority in pursuance of the stipulations of the present convention shall be free to put to sea again.

It may be permitted to land its cargo after the necessary precautions have been taken, viz:

1. Isolation of the vessel, crew, and passengers.
2. In regard to plague, inquiry as to the existence of an unusual mortality among the rats.
3. In regard to cholera, the substitution of good water in the place of the drinking water stored on board, when the latter is considered suspicious.

It may also be permitted to land passengers who so request, upon condition that they submit to the measures prescribed by the local authority.

Art. 37. Vessels hailing from a contaminated port and which have been subjected to sanitary measures applied in an efficient manner in a port belonging to one of the contracting countries shall not undergo the same measures a second time upon their arrival in a new port, whether or not the latter belong to the same country, provided no incident has occurred which would involve the application of the sanitary measure contemplated hereinbefore, and provided they have not touched at a contaminated port.

A vessel shall not be considered as having stopped at a port when, without having been in communication with the shore, it lands only passengers and their baggage and the mail, or takes on only the mail, or passengers with or without baggage who have not communicated with the port or with a contaminated area. In case of yellow fever, the vessel must besides have kept away from shore as much as possible, and at a distance of 200 meters in order to prevent the invasion of mosquitos.

Art. 38. A port authority who applies sanitary measures shall deliver to the captain, owner, or agent, whenever requested, a certificate specifying the nature of the measures and the reasons for which they have been applied.

Art. 39. Passengers arriving on an infested vessel shall have a right to demand a certificate of the health authority of the port showing the date of their arrival and the measures to which they and their baggage have been subjected.

Art. 40. Coasting vessels shall be subjected to special measures to be established by mutual agreement among the countries concerned.

Art. 41. The Governments of Riparian Nations on the same sea may conclude special agreements among themselves, taking into account their special situations and in order to render more effective and less annoying the application of the sanitary measures provided by the Convention.

Art. 42. It is desirable that the number of ports provided with a sufficient organization and equipment to receive a vessel, whatever be her sanitary condition, should, in the case of each Nation, be in proportion to the importance of traffic and navigation. However, and without prejudice to the rights of the Governments to agree on organizing common sanitary stations, each country should provide at least one of the ports on the coast line of each of its seas with such an organization and equipment.

Moreover, it is recommended that all great ports of maritime navigation be equipped in such a way that at least uninfected vessels may undergo the prescribed sanitary measures therein as soon as they arrive and not be sent to another port for this purpose.

The Governments shall make known the ports which are open in their country to arrivals from ports contaminated with plague, cholera, and yellow fever, and particularly those which are open to infected or suspicious vessels.

Art. 43. It is recommended that there be established in large maritime ports:

a) A regular medical service of the port, and a permanent medical surveillance of the sanitary conditions of the crews and the inhabitants of the port.

b) Means for the transportation of patients and places set apart for their isolation and for the observation of suspected persons.

c) The necessary plants for efficient disinfection, and bacteriological laboratories.

d) A supply of drinking water beyond suspicion for the use of the port, and a system affording all possible security for carrying off refuse and sewage.

Art. 44. It is also recommended that the Contracting Nations take into account, in the treatment to be accorded the arrivals from a country, the measures taken by the latter for combatting infectious diseases and for preventing their exportation.

Section IV—Measures on Land Frontiers—Travelers—Railroads— Frontier Zones—River Routes

Art. 45. No land quarantine shall be established.

Only persons showing symptoms of plague, cholera, or yellow fever shall be detained at frontiers.

This rule shall not bar the right of each Nation to close a part of its frontier in case of necessity.

Art. 46. It is important that travellers be subjected to surveillance on the part of railroad employees with a view to determining the state of their health.

Art. 47. Medical interference shall be limited to an examination of the passengers and the care to be given to the sick. If such an examina-

tion is made, it should be combined as far as possible with the custom house inspection to the end that travellers may be detained as short a time as possible. Only persons who are obviously ill shall be subjected to a thorough medical examination.

Art. 48. As soon as travellers coming from an infected locality shall have arrived at their destination, it would be of the greatest utility to subject them to surveillance which ought not to exceed, counting from the day of departure, five days in case of plague or cholera and six days in case of yellow fever.

Art. 49. The Governments reserve the right to take special measures in regard to certain categories of persons, notably gypsies, vagabonds, emigrants, and persons traveling and crossing the frontier in troops.

Art. 50. Cars used for the conveyance of passengers, mail, and baggage shall not be detained at frontiers.

If it should happen that one of these cars is contaminated or has been occupied by a plague or cholera patient, it shall be detached from the train and disinfected as soon as possible.

The same rule shall apply to freight cars.

Art. 51. The measures concerning the crossing of frontiers by railroad and postal employees shall be determined by the companies or departments concerned and shall be so arranged as not to hinder the service.

Art. 52. The regulation of frontier traffic and questions pertaining thereto, as well as the adoption of exceptional measures of surveillance, shall be left to special arrangements between the contiguous nations.

Art. 53. It shall be the province of the Governments of the riparian nations to regulate the sanitary conditions of river routes by means of special arrangements.

Title II—Special provisions applicable to Oriental and Far Eastern Countries

Section I—Measures in Ports Contaminated upon the Departure of Vessels

Art. 54. Every person, including the members of the crew, who take passage on board a vessel shall, at the time of embarkation, be examined individually in the day time on shore, for the necessary length of time, by a physician delegated by the public authority. The consular authority of the nation to which the vessel belongs may be present at this examination.

As an exception to this stipulation, the medical examination may take place on shipboard at Alexandria and Port Said, when the local health authority deems it expedient, provided that the third-class passengers shall not be permitted to leave the vessel. This medical examination may be made at night in the case of first and second class passengers but not of third-class passengers.

Section II—Measures with respect to ordinary Vessels hailing from Contaminated Northern Ports and appearing at the entrance of the Suez Canal or in Egyptian Ports

Art. 55. Ordinary uninfected vessels hailing from a plague or cholera infected port of Europe or the basin of the Mediterranean and presenting themselves for passage through the Suez Canal shall be allowed to pass through in quarantine. They shall continue their routes under observation of five days.

Art. 56. Ordinary uninfected vessels wishing to make a landing in Egypt may stop at Alexandria or Port Said, where the passengers shall complete the observation period of five days either on shipboard or in a sanitary station, according to the decision of the local health authority.

Art. 57. The measures to which infected or suspected vessels shall be subjected which hail from a plague or cholera infected port of Europe or the shores of the Mediterranean, and which desire to effect a landing in one of the Egyptian ports or to pass through the Suez Canal, shall be determined by the board of health of Egypt in conformity with the stipulations of the present convention.

The regulations containing these measures shall, in order to become effective, be accepted by the various powers represented on the Board; they shall determine the measures to which vessels, passengers, and merchandise are to be subjected and shall be presented within the shortest possible period.

Section III—Measures in the Red Sea

A. Measures with respect to Ordinary Vessels hailing from the South and appearing in ports of the Red Sea or bound toward the Mediterranean

Art. 58. Independently of the general provisions contained in Section III. Chapter 2, Title I. concerning the classification of and the measures applicable to infected, suspected, or uninfected vessels, the special provisions contained in the ensuing articles are applicable to ordinary vessels coming from the south and entering the Red Sea.

Art. 59. Uninfected vessels must have completed or shall be required to complete an observation period of five full days from the time of their departure from the last infected port.

They shall be allowed to pass through the Suez Canal in quarantine and shall enter the Mediterranean continuing the aforesaid observation period of five days. Ships having a physician and a disinfecting chamber on board shall not undergo disinfection until the passage through the quarantine begins.

Art. 60. Suspected vessels shall be treated differently according to whether they have a physician and a disinfecting apparatus (chamber) on board or not.

a) Vessels having a physician and a disinfecting apparatus (chamber) on board and filling the necessary conditions shall be permitted to pass through the Suez Canal in quarantine under conditions prescribed by the regulations for the passage through.

b) Other suspected vessels having neither physician nor disinfecting apparatus (chamber) on board shall, before being permitted to pass through in quarantine, be detained at Suez or Moses Spring a sufficient length of time to carry out the disinfecting measures prescribed and to ascertain the sanitary condition of the vessel.

In the case of mail vessels and of packets specially utilized for the transportation of passengers and having no disinfecting apparatus (chamber) but having a physician on board, if the last case of plague or cholera dates back longer than seven days and if the sanitary condition of the vessel is satisfactory, partique may be granted at Suez when the operations prescribed by the regulations are completed.

When a vessel has had a run of less than seven days without infection the passengers bound for Egypt shall be landed at an establishment designated by the Board of Health of Alexandria and isolated a sufficient length of time to complete the observation period of five days. Their soiled linen and wearing apparel shall be disinfected. They shall then receive partique.

Vessels having had a run of less than seven days without infection and desiring to obtain partique in Egypt shall be detained in an establishment designated by the Board of Health of Alexandria for a sufficient length of time to complete the observation period of five days. They shall undergo the measures prescribed for infected vessels.

When the plague or cholera has appeared exclusively among the crew, only the soiled linen of the latter shall be disinfected, but it shall all be disinfected, including that in the living quarters of the crew.

Art. 61. Infected vessels are divided into vessels with a physician and a disinfecting apparatus (chamber) on board, and vessels without a physician and a disinfecting apparatus (chamber).

a) Vessels without a physician and a disinfecting apparatus (chamber) shall be stopped at Moses Springs; persons showing symptoms of plague or cholera shall be landed and isolated in a hospital. The disinfection shall be carried out in a thorough manner. The other passengers shall be landed and isolated in groups composed of as few persons as possible, so that the whole number may not be infected by a particular group if the plague or cholera should develop. The soiled linen, wearing apparel, and clothing of the crew and passengers, as well as the vessel shall be disinfected.

It is to be distinctly understood that there shall be no discharge of cargo but simply a disinfection of the part of the vessel which has been infected.

The passengers shall remain for five days in the establishment designated

by the Sanitary, Marine and Quarantine Board of Egypt. When the cases of plague or cholera date back several days, the length of the isolation shall be diminished. This length shall vary according to the date of the cure, death, or isolation of the last patient. Thus, when the last case of plague or cholera has terminated six days before by a cure or death, or when the last patient has been isolated for six days, the observation period shall last one day; if only five days have elapsed, the observation period shall be two days; if only four days have elapsed, the observation period shall be three days; if only three days have elapsed, the observation period shall be four days; and if only two days or one day has elapsed, the observation period shall be five days.

b) Vessels with a physician and a disinfecting apparatus (chamber) on board shall be stopped at Moses Springs. The ship's physician must declare, under oath, what persons on board show symptoms of plague or cholera. These patients shall be landed and isolated.

After the landing of these patients, the soiled linen of the rest of the passengers which the health authorities may consider dangerous, as well as that of the crew, shall undergo disinfection on board.

When plague or cholera shall have appeared exclusively among the crew, the disinfection of the linen shall be limited to the soiled linen of the crew and the linen of the living apartments of the crew.

The ship's physician shall indicate also, under oath, the part or compartment of the vessel and the section of the hospital in which the patient or patients have been transported. He shall also declare, under oath, what persons have been in contact with the plague or cholera patient since the first manifestation of the disease, either directly or through contact with objects which might be contaminated. Such persons alone shall be considered as suspects.

The part or compartment of the vessel and the section of the hospital in which the patient or patients have been transported shall be thoroughly disinfected. By "part of the ship" shall be meant the cabin of the patient, the neighboring cabins, the corridor on which these cabins are located, the deck, and the parts of the deck where the patients have been.

If it is impossible to disinfect the part or compartment of the vessel which has been occupied by the persons stricken with plague or cholera without landing the persons declared suspects, these persons shall be either placed in another vessel specially designed for this purpose or landed and lodged in the sanitary establishment without coming in contact with the patients, who shall be placed in the hospital.

The duration of this stay on the vessel or on shore shall be as short as possible and shall not exceed twenty-four hours.

The suspects shall undergo, either on their vessel or on the vessel designated for this purpose, an observation period whose duration shall vary according to the cases and under the conditions provided in the third paragraph of subdivision a).

The time taken up by the perscribed operations shall be comprised in the duration of the observation period.

The passage through in quarantine may be allowed before the expiration of the periods indicated above if the health authority deems it possible. It shall at all events be granted when the disinfection has been completed, if the vessel leaves behind not only its patients but also the persons indicated above as "suspects."

A disinfecting chamber placed on a lighter may come alongside the vessel in order to expedite the disinfecting operations.

Infected vessels requiring partique in Egypt shall be detained at Moses Springs five days; they shall, moreover, undergo the same measures as those adopted for infected vessels arriving in Europe.

B. Measures with respect to Ordinary Vessels hailing from the Infected Ports of Hedjaz during the Pilgrimage Season

Art. 62. If the plague or cholera prevail in Hedjaz during the time of the Mecca pilgrimage, vessels coming from the Hedjaz or from any other part of the Arabian coast of the Red Sea without having embarked there any pilgrims or similar masses of persons, and which have not had any suspicious occurrence on board during the voyage, shall be placed in the category of ordinary suspected vessels. They shall be subjected to the preventive measures and to the treatment imposed on such vessels.

If they are bound for Egypt they shall undergo, in a sanitary establishment designated by the Sanitary, Marine, and Quarantine Board, an observation of five days from the date of departure for cholera as well as for plague. They shall be subjected, moreover, to all the measures prescribed for suspected vessels (disinfection, etc.), and shall not be granted partique until they have passed a favorable medical examination.

It shall be understood that if the vessels have had suspicious occurrences during the voyage they shall pass the observation period at Moses Springs, which shall last five days whether it be a question of plague or cholera.

Section IV—Organization of Surveillance and Disinfection at Suez and Moses Springs

Art. 63. The medical inspection prescribed by the regulations shall be made on each vessel arriving at Suez by one or more of the physicians of the station, being made in the daytime on vessels hailing from the port infected with plague or cholera. It may, however, be made at night on vessels which come to pass through the canal, provided they are lit by electricity and wherever the local health authority is satisfied that the lighting facilities are adequate.

Art. 64. The physicians of the Suez station shall be at least seven in number—one chief physician and six others. They must possess a

regular diploma and shall be chosen preferably among physicians who have made special practical studies in epidemiology and bacteriology. They shall be appointed by the Minister of the Interior upon the recommendation of the Sanitary, Marine, and Quarantine Board of Egypt. They shall receive a salary to begin at 8,000 francs and which may progressively rise to 12,000 francs for the six physicians, and vary from 12,000 to 15,000 francs for the chief physician.

If the medical service should still prove inadequate, recourse may be had to the surgeons of the navies of the several nations, who shall be placed under the authority of the chief physician of the sanitary station.

Art. 65. A corps of sanitary guards shall be intrusted with the surveillance and execution of the prophylactic measures applied in the Suez Canal, at the establishment at Moses Springs and at Tor.

Art. 66. This corps shall comprise ten guards.

It shall be recruited from among former noncommissioned officers of the European and Egyptian armies and navies.

After their competence has been ascertained by the Board, the guards shall be appointed in the manner provided by article 14 of the Khedival decree of June 19, 1893.

Art. 67. The guards shall be divided into two classes, the first comprising four and the second six guards.

Art. 68. The annual compensation allowed the guards shall be:

For the first class, from L 160 Eg. to L 200 Eg.

For the second class, from L 120 to L 168 Eg.

With a progressive increase until the maximum is reached.

Art. 69. The guards shall be invested with the character of officers of the public peace, with the right to call for assistance in case of infractions of the sanitary regulations.

They shall be placed under the immediate orders of the Director of the Suez or the Tor Bureau.

Section V—Passage through the Suez Canal in Quarantine

Art. 70. The health authority of Suez shall grant the passage through in quarantine, and the Board shall be immediately informed thereof.

Doubtful cases shall be decided by the Board.

Art. 71. As soon as the permit provided for in the preceding article is granted, a telegram shall be sent to the authority designated by each power, the dispatch of the telegram being at the expense of the vessel.

Art. 72. Each power shall establish penalties against vessels which abandon the route indicated by the captain and unduly approach one of the ports within its territory, cases of *vis major* and enforced sojourn being excepted.

Art. 73. Upon a vessel's being spoken, the captain shall be obliged to declare whether he has on board any gangs of native stokers or of wage-earning employees of any description who are not inscribed on the crew list or the register kept for this purpose.

The following questions in particular shall be asked the captains of all vessels arriving at Suez from the south, and shall be answered under oath:

"Have you any helpers (stokers or other workmen) not inscribed on your crew list or on the special register? What is their nationality? Where did you embark them?"

The sanitary physicians should ascertain the presence of these helpers and if they discover that any of them are missing they should carefully seek the cause of their absence.

Art. 74. A health officer and two sanitary guards shall board the vessel and accompany her to Port Said. Their duty shall be to prevent communications and see to the execution of the prescribed measures during the passage through the canal.

Art. 75. All embarkations, landings, and transshipments of passengers or cargo are forbidden during the passage through the Suez canal to Port Said.

However, passengers may embark at Port Said in quarantine.

Art. 76. Vessels passing through in quarantine shall make the trip from Suez to Port Said without putting into dock.

In case of stranding or being compelled to put into dock, the necessary operations shall be performed by the personnel on board, all communications with the employees of the Suez Canal Company being avoided.

Art. 77. When troops are conveyed through the canal on suspicious or infected vessels passing through in quarantine, the trip shall be made in the daytime only. If it is necessary to stop at night in the canal, the vessels shall anchor in Lake Timsah or the Great Lake.

Art. 78. Vessels passing through in quarantine are forbidden to stop in the harbor of Port Said except in the cases contemplated in articles 75 (paragraph 2) and 76.

The supply and preparation of food on board vessels shall be effected with the means at hand on the vessels.

Stevedores or any other persons who may have gone on board shall be isolated on the quarantine lighter. Their clothing shall there undergo disinfection as per regulations.

Art. 79. When it is absolutely necessary for vessels passing through in quarantine to take on coal at Port Said, they shall perform this operation in a locality affording the necessary facilities for isolation and sanitary surveillance, to be selected by the Board of Health. When it is possible to maintain a strict supervision on board the vessel and to prevent all contact with the persons on board, the coaling of the vessel by the workmen of the port may be permitted. At night the place where the coaling is done should be illuminated by electric lights.

Art. 80. The pilots, electricians, agents of the Company, and sanitary guards shall be put off at Port Said outside of the port between the jetties and thence conducted directly to the quarantine lighter, where their clothing shall undergo disinfection when deemed necessary.

Art. 81. The war vessels hereinafter specified shall enjoy the benefits of the following provisions when passing through the Suez Canal:

They shall be recognized by the quarantine authority as uninfected upon the production of a certificate issued by the physician on board, countersigned by the commanding officer, and affirmed under oath;

a) That there has not been any case of plague or cholera on board either at the time of departure or during the passage.

b) That a careful examination of all persons on board, without any exception, has been made less than twelve hours before the arrival in the Egyptian port, and that it revealed no case of these diseases.

These vessels shall be exempted from the medical examinations and immediately receive partique, provided a period of five full days has elapsed since their departure from the last infected port.

In case the required period has not elapsed, the vessels may pass through the canal in quarantine without undergoing the medical examination, provided they present the above-mentioned certificate to the quarantine authorities.

The quarantine authorities shall nevertheless have a right to cause their agents to perform the medical examination on board war vessels whenever they deem it necessary.

Suspicious or infected vessels shall be subjected to the regulations in force.

Only fighting units shall be considered as war vessels, transports and hospital ships falling under the category of ordinary vessels.

Art. 82. The Sanitary, Maritime, and Quarantine Board of Egypt is authorized to organize the transit through Egyptian territory by rail of the mails and ordinary passengers coming from infected countries in quarantine trains, under the conditions set forth in Annex I.

Section VI—Sanitary Measures applicable to the Persian Gulf

Art. 83. The sanitary regulations established by the articles of the present Convention shall be applied, as regards vessels entering the Persian Gulf, by the health authorities of the ports of arrival.

This regulation shall be subjected to the following three reservations with regard to the classification of the vessels and of the measures to be applied to them in the Persian Gulf:

1. The surveillance of the passengers and crew shall always be superseded by an observation of the same duration.

2. Uninfected vessels may obtain partique there only upon condition that five full days have elapsed since the time of their departure from the last infected port.

3. In regard to suspected vessels the period of five days for the observation of the crew and passengers shall begin as soon as there is no case of plague or cholera on board.

Title III—Provisions specially applicable to Pilgrimages

Chapter I. *General Provisions*

Art. 84. The provisions of article 54 of Title II are applicable to persons and objects bound for Hedjaz or Irak Arabi and who are to be embarked on a pilgrim ship, even if the port of embarkation is not infected with plague or cholera.

Art. 85. When cases of plague or cholera exist in the port, no embarkation shall be made on pilgrim ships until after the persons, assembled in a group, have been subjected to an observation for the purpose of ascertaining that none of them is stricken with plague or cholera.

It shall be understood that, in executing this measure, each Government may take into account the local circumstances and possibilities.

Art. 86. If local circumstances permit, the pilgrims shall be obliged to prove that they possess the means absolutely necessary to complete the pilgrimage, especially a round-trip ticket.

Art. 87. Steamships shall alone be permitted to engage in the long-voyage transportation of pilgrims, all other vessels being forbidden to engage in this traffic.

Art. 88. Pilgrim ships engaged in coasting trade and used in making the conveyances of short duration called "coasting trade" shall be subject to the provisions contained in the special regulations applicable to the Hedjaz pilgrimage, which shall be published by the Board of Health of Constantinople in accordance with the principles enounced in the present Convention.

Art. 89. A vessel which does not embark a greater proportion of pilgrims of the lowest class than one per hundred tons gross burden, in addition to its ordinary passengers (among whom pilgrims of the higher class may be included), shall not be considered as a pilgrim ship.

Art. 90. Every pilgrim ship situated in Ottoman waters must conform to the provisions contained in the special regulations applicable to the Hedjaz pilgrimage, which shall be published by the Board of Health of Constantinople in accordance with the principles set forth in the present convention.

Art. 91. The captain shall be obliged to pay all the sanitary taxes collectible from the pilgrims, which shall be comprised in the price of the ticket.

Art. 92. As far as possible, the pilgrims who land or embark at the sanitary stations shall not come in contact with one another at the points of debarkation.

The pilgrims who are landed shall be sent to the encampment in as small groups as possible.

They must be furnished with good drinking water, whether it is found on the spot or obtained by distillation.

Art. 93. When there is plague or cholera in Hedjaz, the provisions

carried by the pilgrims shall be destroyed if the health authority deems it necessary.

Chapter II—*Pilgrim ships—Sanitary arrangements*

Section I. General Arrangement of Vessels

Art. 94. The vessel must be able to lodge pilgrims between decks.

Outside of the crew, the vessel shall furnish to every individual, whatever be his age, a surface of 1,5 square meters (16 English square feet) with a height between decks of about 1,8 meters.

On vessels engaged in coasting trade each pilgrim shall have at his disposal a space of at least 2 meters wide along the gunwales of the vessel.

Art. 95. On each side of the vessel, on deck, there shall be reserved a place screened from view and provided with a hand pump so as to furnish sea water for the needs of the pilgrims. One such place shall be reserved exclusively for women.

Art. 96. In addition to the water closets for the use of the crew, the vessel shall be provided with latrines flushed with water or provided with a stop cock, in the proportion of at least one latrine for every 100 persons embarked.

There shall be latrines reserved exclusively for women.

There shall be no water closets between decks or within the hold.

Art. 97. The vessel shall have two places arranged for private cooking by the pilgrims, who shall be forbidden to make a fire elsewhere and especially on deck.

Art. 98. Infirmarys properly arranged with regard to safety and sanitary conditions shall be reserved for lodging the sick.

They shall be so arranged as to be capable of isolating, according to the kind of disease, persons stricken with transmissible ailments.

The infirmarys shall be able to receive at least five per cent of the pilgrims embarked, allowing at least 3 square kilometers per head.

Art. 99. Every vessel shall have on board the medicines, disinfectants, and articles necessary for the care of the sick. The regulations made for this kind of vessels by each Government shall determine the nature and quantity of the medicines. The care and the remedies shall be furnished free of charge to the pilgrims.

Art. 100. Every vessel embarking pilgrims shall have on board a physician holding a regular diploma and commissioned by the Government of the country to which the vessel belongs or by the government of the port in which the vessel takes pilgrims on board. A second physician shall be embarked as soon as the number of pilgrims carried by the vessel exceeds one thousand.

Art. 101. The captain shall be obliged to have handbills posted on board in a position which is conspicuous and accessible to those interested. They

shall be in the principal languages of the countries inhabited by the pilgrims embarked, and show:

1. The destination of the vessel.
2. The price of the tickets.
3. The daily ration of water and food allowed to each pilgrim.
4. A price list of victuals not comprised in the daily ration and to be paid for extra.

Art. 102. The heavy baggage of the pilgrims shall be registered, numbered, and placed in the hold. The pilgrims shall keep with them only such articles as are absolutely necessary, the regulations made by each Government for its vessels determining the nature, quantity and dimensions thereof.

Art. 103. The provisions of Chapters I, II. (sections I. II. and III.) and III. of the present Title shall be posted, in the form of regulations, in the language of the nationality of the vessel as well as in the principal languages of the countries inhabited by the pilgrims embarked, in a conspicuous and accessible place on each deck and between decks on every vessel carrying pilgrims.

Section II—Measures to be taken before Departure

Art. 104. At least three days before departure the captain, or in the absence of the captain the owner or agent, of every pilgrim ship must declare his intention to embark pilgrims to the competent authority of the port of departure. In ports of call the captain, or in the absence of the captain the owner or agent, of every pilgrim ship must make this same declaration twelve hours before the departure of the vessel. This declaration must indicate the intended day of sailing and the destination of the vessel.

Art. 105. Upon the declaration prescribed by the preceding article being made, the competent authority shall proceed to the inspection and measurement of the vessel at the expense of the captain. The consular officer of the country to which the vessel belongs may be present at this inspection.

The inspection only shall be made if the captain is already provided with a certificate of measurement issued by the competent authority of his country, unless it is suspected that the document no longer corresponds to the actual state of the vessel.

Art. 106. The competent authority shall not permit the departure of a pilgrim ship until he has ascertained:

- a) That the vessel has been put in a state of perfect cleanliness and, if necessary, disinfected.
- b) That the vessel is in a condition to undertake the voyage without danger; that it is properly equipped, arranged, and ventilated; that it is provided with an adequate number of small boats; that it contains nothing on board which is or might become detrimental to the health or safety of the passengers, and that the deck is of wood or of iron covered with wood.

c) That, in addition to the provisions for the crew, there are provisions and fuel of good quality on board, suitably stored and in sufficient quantity for all the pilgrims and for the entire anticipated duration of the voyage.

d) That the drinking water taken on board is of good quality and from a source protected against all contamination; that there is a sufficient quantity thereof; that the tanks of drinking water on board are protected against all contamination and closed in such a way that the water can only be let out through the stop cocks or pumps. The devices for letting water out called "suckers" are absolutely forbidden.

e) That the vessel has a distilling apparatus capable of producing at least 5 liters of water per head each day for every person embarked, including the crew.

f) That the vessel has a disinfecting chamber whose safety and efficiency have been ascertained by the health authority of the port of embarkation of the pilgrims.

g) That the crew comprises a physician holding a diploma and commissioned either by the Government of the country to which the vessel belongs or by the Government of the port where the vessel takes on pilgrims, and that the vessel has a supply of medicines, all in conformity with articles 99 and 100.

h) That the deck of the vessel is free from all cargo and other encumbrances.

i) That the arrangements of the vessel are such that the measures prescribed by Section III. hereinafter may be executed.

Art. 107. The captain shall not sail till he has in his possession:

1. A list viséed by the competent authority and showing the name, sex, and total number of pilgrims whom he is authorized to embark.

2. A bill of health setting forth the name, nationality, and tonnage of the vessel, the name of the captain and of the physician, the exact number of persons embarked (crew, pilgrims, and other passengers), the nature of the cargo, and the port of departure.

The competent authority shall indicate on the bill of health whether the number of pilgrims allowed by the regulations is reached or not, and, in case it is not reached, the additional number of passengers which the vessel is authorized to embark in subsequent ports of call.

Section III—Measures to be taken during the passage

Art. 108. The deck shall remain free from encumbering objects during the voyage and shall be reserved day and night for the persons on board and be placed gratuitously at their service.

Art. 109. Every day the space between decks shall be cleaned carefully and scrubbed with dry sand mixed with disinfectants while the pilgrims are on board.

Art. 110. The latrines intended for the passengers as well as those for

the crew shall be kept neat and be cleaned and disinfected three times a day.

Art. 111. The excretions and dejections of persons showing symptoms of plague or cholera shall be collected in vessels containing a disinfecting solution. These vessels shall be emptied into the latrines, which shall be thoroughly disinfected after each flushing.

Art. 112. Articles of bedding, carpets, and clothing which have been in contact with the patients mentioned in the preceding article shall be immediately disinfected. The observance of this rule is especially enjoined with regard to the clothing of persons who come near to these patients and who may have been contaminated.

Such of the articles mentioned above as have no value shall be thrown overboard, if the vessel is neither in a port nor a canal, or else destroyed by fire. The others shall be carried to the disinfecting chamber in impermeable sacks washed with a disinfecting solution.

Art. 113. The quarters occupied by the patients and referred to in article 98 shall be thoroughly disinfected.

Art. 114. Pilgrim ships shall be compelled to submit to disinfecting operations in conformity with the regulations in force on the subject in the country whose flag they fly.

Art. 115. The quantity of drinking water allowed daily to each pilgrim free of charge, whatever be his age, shall be at least 5 liters.

Art. 116. If there is any doubt about the quality of the drinking water or any possibility of its contamination either at the place of its origin or during the course of the voyage, the water shall be boiled or otherwise sterilized and the captain shall be obliged to throw it overboard at the first port in which a stop is made and in which he is able to procure a better supply.

Art. 117. The physician shall examine the pilgrims, attend the patients, and see that the rules of hygiene are observed on board. He shall especially:

1. Satisfy himself that the provisions dealt out to the pilgrims are of good quality, that their quantity is in conformity with the obligations assumed, and that they are suitably prepared.

2. Satisfy himself that the requirements of article 115 relative to the distribution of water are observed.

3. If there is any doubt about the quality of the drinking water, remind the captain in writing of the provisions of article 106.

4. Satisfy himself that the vessel is maintained in a constant state of cleanliness, and especially that the latrines are cleansed in accordance with the provisions of article 110.

5. Satisfy himself that the lodgings of the pilgrims are maintained in a healthful condition, and that, in case of transmissible disease, they are disinfected in conformity with articles 113 and 114.

6. Keep a diary of all the sanitary incidents occurring during the

course of the voyage and present his diary to the competent authority of the port of arrival.

Art. 118. The persons intrusted with the care of the plague or cholera patients shall alone have access to them and shall have no contact with the other persons on board.

Art. 119. In case of a death occurring during the voyage, the captain shall make note of the death opposite the name on the list viséed by the authority of the port of departure, besides entering on his journal the name of the deceased person, his age, where he comes from, the presumable cause of his death according to the physician's certificate, and the date of the death.

In case of a death by a transmissible disease, the body shall be wrapped in a shroud saturated with disinfecting solution and thrown overboard.

Art. 120. The captain shall see that all the prophylactic measures executed during the voyage are recorded in the ship's journal. This journal shall be presented to him by the competent authority of the port of arrival.

In each port of call the captain shall have the list prepared in accordance with article 107 viséed by the competent authority.

In case a pilgrim is landed during the course of the voyage, the captain shall note the fact on the list opposite the name of the pilgrim.

In case of an embarkation, the person embarked shall be mentioned on this list in conformity with the aforementioned article 107 and before it is viséed again by the competent authority.

Art. 121. The bill of health delivered at the port of departure shall not be changed during the course of the voyage.

It shall be viséed by the health authority of each port of call, who shall note thereon:

1. The number of passengers landed or embarked in the port.
2. The incidents occurring at sea and affecting the health or life of the persons on board.
3. The sanitary condition of the port of call.

Section IV—Measures to be taken on the Arrival of Pilgrims in the Red Sea

A. Sanitary measures applicable to Mussulman-pilgrim ships hailing from an infected Port and bound from the South toward Hedjaz

Art. 122. Pilgrim ships hailing from the south and bound for Hedjaz shall first stop at the sanitary station at Camaran, where they shall be subjected to the measures prescribed in articles 123 to 125.

Art. 123. Vessels recognized as uninfected after a medical inspection shall obtain partique when the following operations are completed:

The pilgrims shall be landed, take a shower or sea bath, and their soiled linen and the part of their wearing apparel and baggage which appears suspicious in the opinion of the health authority shall be disinfected.

The duration of these operations, including debarkation and embarkation, shall not exceed forty-eight hours.

If no real or suspected case of plague or cholera is discovered during these operations, the pilgrims shall be reembarked immediately and the vessel shall proceed to Hedjaz.

For plague, the provisions of articles 23 and 24 shall be applied with regard to the rats which may be found on board the vessels.

Art. 124. Suspicious vessels on board of which there were cases of plague or cholera at the time of departure but on which there has been no new case of plague or cholera for seven days, shall be treated in the following manner:

The pilgrims shall be landed, take a shower or sea bath, and their soiled linen and the parts of their wearing apparel and baggage which appears suspicious in the opinion of the health authority shall be disinfected.

In time of cholera the bilge water shall be changed.

The parts of the vessel occupied by the patients shall be disinfected. The duration of these operations, including debarkation and embarkation, shall not exceed forty-eight hours.

If no real or suspected case of plague or cholera is discovered during these operations, the pilgrims shall be reembarked immediately and the vessel shall proceed to Djeddah, where a second medical inspection shall take place on board. If the result thereof is favorable, and on the strength of a written affidavit by the ship's physician to the effect that there has been no case of plague or cholera during the passage, the pilgrims shall be immediately landed.

If, on the contrary, one or more real or suspected cases of plague or cholera have been discovered during the voyage or at the time of arrival, the vessel shall be sent back to Camaran, where it shall undergo anew the measures applicable to infected vessels.

For plague, the provisions of article 22, 6th par., shall be applicable with regard to the rats which may be found on board the vessels.

Art. 125. Infected vessels, that is, those having cases of plague or cholera on board or having had cases of plague or cholera within seven days, shall undergo the following treatment:

The persons stricken with the plague or cholera shall be landed and isolated in groups comprising as few persons as possible, so that the whole number may not be infected by a particular group if plague or cholera should develop therein.

The soiled linen, wearing apparel, and clothing of the crew and passengers, as well as the vessel, shall be disinfected in a thorough manner.

However, the local health authority may decide that the discharge of the heavy baggage and the cargo is not necessary, and that only a part of the vessel need be disinfected.

The passengers shall remain in the Camaran establishment five days.

When cases of plague or cholera date back several days, the length of the isolation may be diminished. This length may vary according to the date of appearance of the last case and the decision of the health authority.

The vessel shall then proceed to Djeddah, where an individual and rigorous medical examination shall be made. If the result thereof is favorable, the vessel shall obtain *partique*. If, on the contrary, real cases of plague or cholera have appeared on board during the voyage or at the time of arrival, the vessel shall be sent back to Camaran, where it shall undergo anew the treatment applicable to infected vessels.

For plague, the measures prescribed by article 22 shall be applied with regard to the rats which may be found on board the vessels.

Art. 126. Every sanitary station designed to receive pilgrims should be provided with a trained, experienced, and sufficiently numerous staff, as well as with all the buildings and apparatus necessary to insure the application, in their entirety, of the measures to which said pilgrims are subjected.

B. Sanitary measures applicable to Mussulman-pilgrim ships hailing from the North and bound toward Hedjaz

Art. 127. If plague or cholera is not known to exist in the port of departure or its neighborhood, and if no case of plague or cholera has occurred during the passage, the vessel shall be immediately granted *partique*.

Art. 128. If plague or cholera is known to exist in the port of departure or its vicinity, or if a case of plague or cholera has occurred during the voyage, the vessel shall be subjected at Tor to the rules established for vessels coming from the south and stopping at Camaran. The vessels shall thereupon be granted *partique*.

Section V—Measures to be taken upon the Return of Pilgrims

A. Pilgrim ships returning Northward

Art. 129. Every vessel bound for Suez or for a Mediterranean port, having on board pilgrims or similar masses of persons, and hailing from a port of Hedjaz or from any other port of the Arabian coast of the Red Sea, must repair to Tor in order to undergo the observation and the sanitary measures indicated in articles 133 and 135.

Art. 130. Vessels bringing Mussulman pilgrims back toward the Mediterranean shall pass through the canal in quarantine only.

Art. 131. The agents of navigation companies and captains are warned that, after completing their observation period at the sanitary station of Tor, the Egyptian pilgrims will alone be permitted to leave the vessel permanently in order to return thereupon to their homes.

Only those pilgrims will be recognized as Egyptians or as residents of Egypt who are provided with a certificate of residence issued by an

Egyptian authority and conforming to the established model. Samples of this certificate shall be deposited with the consular and health authorities of Djeddah and Yambo, where the agents and captains of vessels can examine them.

Pilgrims other than Egyptians, such as Turks, Russians, Persians, Tunisians, Algerians, Moroccans, etc., cannot be landed in an Egyptian port after leaving Tor. Consequently, navigation agents and captains are warned that the transshipment of pilgrims not residents of Egypt at Tor, Suez, Port Said, or Alexandria is forbidden.

Vessels having on board pilgrims who belong to the nationalities mentioned in the foregoing paragraph shall be subject to the rules applicable to these pilgrims and shall not be received in any Egyptian port of the Mediterranean.

Art. 132. Before being granted partique, Egyptian pilgrims shall undergo an observation of three days and a medical examination at Tor, Souakim, or any other station designated by the Board of Health of Egypt.

Art. 133. If plague or cholera is known to exist in Hedjaz or in the port from which the vessel hails, or if it has existed in Hedjaz during the course of the pilgrimage, the vessel shall be subjected at Tor to the rules adopted at Camaran for infected vessels.

The persons stricken with plague or cholera shall be landed and isolated in the hospitals. The other passengers shall be landed and isolated in groups composed of as few persons as possible, so that the whole number may not be infected by a particular group if the plague or cholera should develop therein.

The soiled linen, wearing apparel, and clothing of the crew and passengers, as well as the baggage and cargo suspected of contamination shall be landed and disinfected. Their disinfection as well as that of the vessel shall be thorough.

However, the local health authority may decide that the unloading of the heavy baggage and the cargo is not necessary, and that only a part of the vessel need undergo disinfection.

The measures provided in articles 22 and 25 shall be applied with regard to the rats which may be found on board.

All the pilgrims shall be subjected to an observation of seven full days from the day on which the disinfecting operations are completed, whether it be a question of plague or cholera. If a case of plague or cholera has appeared in one section, the period of seven days shall not begin for this section until the day on which the last case was discovered.

Art. 134. In the case contemplated in the preceding article, the Egyptian pilgrims shall be subjected, besides, to an additional observation of three days.

Art. 135. If plague or cholera is not known to exist either in Hedjaz or in the port from which the vessel hails, and has not been known to exist

in Hedjaz during the course of the pilgrimage, the vessel shall be subjected at Tor to the rules adopted at Camaran for uninfected vessels.

The pilgrims shall be landed and take a shower or sea bath, and their soiled linen or the part of their wearing apparel and baggage which may appear suspicious in the opinion of the health authority shall be disinfected. The duration of these operations, including the debarkation and embarkation, shall not exceed seventy-two hours.

However, a pilgrim ship belonging to one of the nations which have adhered to the stipulations of the present and the previous conventions, if it has had no plague or cholera patients during the course of the voyage from Djeddah to Yambo or Tor and if the individual medical examination made at Tor after debarkation establishes the fact that it contains no such patients, may be authorized by the Board of Health of Egypt to pass through the Suez Canal in quarantine even at night when the following four conditions are fulfilled:

1. Medical attendance shall be given on board by one or several physicians commissioned by the government to which the vessel belongs.

2. The vessel shall be provided with disinfecting chambers and it shall be ascertained that the soiled linen has been disinfected during the course of the voyage.

3. It shall be shown that the number of pilgrims does not exceed that authorized by the pilgrimage regulations.

4. The captain shall bind himself to repair directly to a port of the country to which the vessel belongs.

The medical examination shall be made as soon as possible after debarkation at Tor.

The sanitary tax to be paid to the quarantine administration shall be the same as the pilgrims would have paid had they remained in quarantine three days.

Art. 136. A vessel which has had a suspicious case on board during the voyage from Tor to Suez shall be sent back to Tor.

Art. 137. The transshipment of pilgrims is strictly forbidden in Egyptian ports.

Art. 138. Vessels leaving Hedjaz and having on board pilgrims who are bound for a port on the African shore of the Red Sea shall be authorized to proceed directly to Souakim or to such other place as the Board of Health of Alexandria may determine, where they shall submit to the same quarantine procedure as at Tor.

Art. 139. Vessels sailing from Hedjaz or from a port on the Arabian coast of the Red Sea with a clean bill of health, having no pilgrims or similar groups of people on board, and which have had no suspicious occurrence during the voyage, shall be granted partique at Suez after a favorable medical inspection.

Art. 140. When plague or cholera shall have been proven to exist in Hedjaz:

1. Caravans composed of Egyptian pilgrims shall, before going to Egypt, undergo at Tor a rigid quarantine of seven days in case of cholera or plague. They shall then undergo an observation of three days at Tor, after which they shall not be granted partique until a favorable medical inspection has been made and their belongings have been disinfected.

2. Caravans composed of foreign pilgrims who are about to return to their homes by land routes shall be subjected to the same measures as the Egyptian caravans and shall be accompanied by sanitary guards to the edge of the desert.

Art. 141. When plague or cholera has not been observed in Hedjaz, the caravans of pilgrims coming from Hedjaz by way of Akaba or Moila shall, upon their arrival at the canal or at Nakhel, be subjected to a medical examination and their soiled linen and wearing apparel shall be disinfected.

B. Pilgrims returning Southward

Art. 142. Sufficiently complete sanitary arrangements shall be installed in the ports of embarkation of Hedjaz in order to render possible the application to pilgrims who have to travel southward in order to return to their homes, of the measures which are obligatory by virtue of articles 10 and 54 at the moment of departure of these pilgrims in the ports situated beyond the Straits of Bab-el Mandeb.

The application of these measures is optional; that it, they are only to be applied in those cases in which the consular officer of the country to which the pilgrim belongs, or the physician of the vessel on which he is about to embark, deems them necessary.

Chapter III—*Penalties*

Art. 143. Every captain convicted of not having conformed, in the distribution of water, provisions, or fuel, to the obligations assumed by him, shall be liable to a fine of two Turkish pounds. This fine shall be collected for the benefit of the pilgrim who shall have been the victim of the default, and who shall prove that he has vainly demanded the execution of the agreement made.

Art. 144. Every infraction of article 101 shall be punished by a fine of thirty Turkish pounds.

Art. 145. Every captain who has committed or knowingly permitted any fraud whatever concerning the list of pilgrims or the bill of health provided for in article 107 shall be liable to a fine of fifty Turkish pounds.

Art. 146. Every captain of a vessel arriving without a bill of health from the port of departure, or without a visé from the ports of call or who is not provided with the list required by the regulations and regularly kept in accordance with articles 107, 120, and 121, shall be liable in each case to a fine of twelve Turkish pounds.

Art. 147. Every captain convicted of having or having had on board more than 100 pilgrims without the presence of a commissioned physician

in conformity with the provisions of article 100 shall be liable to a fine of thirty Turkish pounds.

Art. 148. Every captain convicted of having or having had on board a greater number of pilgrims than that which he is authorized to embark in conformity with the provisions of article 107 shall be liable to a fine of five Turkish pounds for each pilgrim in excess.

Art. 149. Every captain convicted of having landed pilgrims at a place other than their destination, except with their consent or excepting cases of *vis major*, shall be liable to a fine of twenty Turkish pounds for each pilgrim wrongfully landed.

Art. 150. All other infractions of the provisions relative to pilgrim ships are punishable by a fine of from 10 to 100 Turkish pounds.

Art. 151. Every violation proven in the course of a voyage shall be noted on the bill of health as well as on the list of pilgrims. The competent authority shall draw up a report thereof and deliver it to the proper party.

Art. 152. All agents called upon to assist in the execution of the provisions of the present Convention with regard to pilgrim ships are liable to punishment in conformity with the laws of their respective countries in case of faults committed by them in the application of the said provisions.

Title IV—Surveillance and Execution

I. Sanitary, Maritime, and Quarantine Board of Egypt

Art. 153. The stipulations of Appendix III of the Sanitary Convention of Venice of January 30, 1892, concerning the composition, rights and duties, and operation of the Sanitary, Maritime, and Quarantine Board of Egypt, are confirmed as they appear in the decrees of His Highness the Khedive under date of June 19, 1893, and December 25, 1894, as well as in the ministerial decision of June 19, 1893.

The said decrees and decisions are annexed to the present Convention. (Appendix II.)

Art. 154. The ordinary expenses resulting from the provisions of the present convention, especially those relating to the increase of the personnel belonging to the Sanitary, Maritime, and Quarantine Board of Egypt, shall be covered by means of an annual supplementary payment by the Egyptian Government of the sum of 4,000 Egyptian pounds, which may be taken from the surplus revenues from the lighthouse service remaining at the disposal of said Government.

However, the proceeds of a supplementary quarantine tax of ten tariff dollars per pilgrim to be collected at Tor shall be deducted from this sum.

In case the Egyptian Government shall find difficulty in bearing this share of the expenses, the Powers represented in the Board of Health

shall reach an understanding with the Khedival Government in order to insure the participation of the latter in the expenses contemplated.

Art. 155. The Sanitary, Maritime and Quarantine Board of Egypt shall undertake the task of bringing the provisions of the present convention into conformity with the regulations at present enforced by it in regard to the plague, cholera, and yellow fever, as well as with the regulations relative to arrivals from the Arabian ports of the Red Sea during the pilgrim season.

To the same end it shall, if necessary, revise the general regulations of the sanitary, maritime, and quarantine police at present in force.

These regulations, in order to become effective, must be accepted by the various Powers represented on the Board.

II—The International Health Board of Tangier

Art. 156. In the interest of public health, the High Contracting Parties agree that their representatives in Morocco shall again invite the attention of the International Health Board of Tangier to the necessity of enforcing the provisions of the sanitary conventions.

III—Miscellaneous Provisions

Art. 157. The proceeds from the sanitary taxes and fines shall in no case be employed for objects other than those within the scope of the Boards of Health.

Art. 158. The High Contracting Parties agree to have a set of instructions prepared by their health departments for the purpose of enabling captains of vessels, especially when there is no physician on board, to enforce the provisions contained in the present convention with regard to plague, cholera, and yellow fever.

Title V—Adhesions and Ratifications

Art. 159. The Governments which have not signed the present convention shall be permitted to adhere thereto upon request. Notice of this adhesion shall be given through diplomatic channels to the Government of the French Republic and by the latter to the other signatory governments.

Art. 160. The present convention shall be ratified and the ratifications thereof deposited at Paris as soon as possible.

It shall be enforced as soon as it shall have been proclaimed in conformity with the legislation of the signatory nations. In the respective relations of the Powers which have ratified it, it shall supersede the international sanitary conventions signed January 30, 1892; April 15, 1893; April 3, 1894; March 19, 1897; and December 3, 1903.

The previous arrangements enumerated above shall remain in force with regard to the Powers which, having signed or adhered to them, may not ratify or accede to the present act.

In witness whereof the respective Plenipotentiaries have signed the present convention and affixed thereto their seals.

Done at Paris on January 7, 1912, in a single copy which shall remain deposited in the archives of the Government of the French Republic, and of which certified copies shall be transmitted through the diplomatic channels to the Contracting Powers.

(Signatures)¹⁴

The foregoing convention is a strong illustration of the tendency for a body of representatives of the nations who undertake the task of protecting the nations from certain clearly defined dangers and evils, to also guard against minor incidental evils affecting the people most directly concerned with their undertaking. The menaces of plague, cholera, and yellow fever, whenever prevalent in any part of the world, arouse the apprehensions of all the nations and call for most efficient measures to prevent their spread. The religious enthusiasm of Moham-medan pilgrims induces them not only to incur all the personal risks of journeying into infected lands, but to do so in multitudes under very unsanitary conditions. Supervision of the vessels in which they are transported is therefore a matter of prime importance in carrying out the sanitary regulations necessary in order to prevent them from carrying disease from place to place. To make the sanitary measures effective it is necessary to protect the pilgrims from disease. Cleansing and disinfection are for the benefit of all concerned. But there are many provisions in this convention designed to protect the pilgrims against fraud, oppression and suffering which have little or no direct connection with sanitation. The requirements of pure food and water and sufficient room tend to insure comfort as well as health, but those against extortion and landing them at ports other than their destination are solely for the personal protection of the pilgrims. Passengers are guarded against unreasonable detention while the sanitary measures are being taken with the same care that is given to cleansing and disinfection in the general interest.

The invention of the wireless telegraph dispensing with the necessity for wires or cables in order to communicate in any

¹⁴ Senate Documents, 3rd Session 62nd Congress, 10, 390 to 429.

direction by land or sea called for international regulation of its use. A conference was therefore held of twenty-seven nations representing all the continents at Berlin where a convention was signed on November 3, 1906. In 1912 at a conference held in London another convention was signed which is as follows:

INTERNATIONAL WIRELESS TELEGRAPH CONVENTION

The undersigned, plenipotentiaries of the Governments of the countries enumerated above, having met in conference at London, have agreed on the following Convention, subject to ratification:

Article 1. The High Contracting Parties bind themselves to apply the provisions of the present Convention to all wireless telegraph stations open to public service between the coast and vessels at sea—both coastal stations and stations on shipboard—which are established or worked by the Contracting Parties.

They further bind themselves to make the observance of these provisions obligatory upon private enterprises authorized either to establish or work coastal stations for wireless telegraphy open to the service of public correspondence between the coast and vessels at sea, or to establish or work wireless telegraph stations, whether open to general public service or not, on board of vessels flying their flag.

Art. 2. By "coastal stations" is to be understood every radio station established on shore or on board a permanently moored vessel used for the exchange of correspondence with ships at sea.

Every radio station established on board any vessel not permanently moored is called "a station on shipboard."

Art. 3. The coastal stations and the stations on shipboard shall be bound to exchange radiograms without distinction of the radio system adopted by such stations.

Every station or shipboard shall be bound to exchange radiograms with every other station on shipboard without distinction of the radio system adopted by such stations.

However, in order not to impede scientific progress, the provisions of the present Article shall not prevent the eventual employment of a radio system incapable of communicating with other systems, provided that such incapacity shall be due to the specific nature of such system and that it shall not be the result of devices adopted for the sole purpose of preventing intercommunication.

Art. 4. Notwithstanding the provisions of Article 3, a station may be reserved for a limited public service determined by the object of the correspondence or by other circumstances independent of the system employed.

Art. 5. Each of the High Contracting Parties undertakes to connect the

coastal stations to the telegraph system by special wires, or, at least, to take other measures which will insure a rapid exchange between the coastal stations and the telegraph system.

Art. 6. The High Contracting Parties shall notify one another of the names of coastal stations and stations on shipboard referred to in Article 1, and also of all data necessary to facilitate and accelerate the exchange of radiograms, as specified in the regulations.

Art. 7. Each of the High Contracting Parties reserve the right to prescribe or permit at the stations referred to in Article 1, apart from the installation the data of which are to be published in conformity with Article 6, the installation and working of other devices for the purpose of establishing special radio communication without publishing the details of such devices.

Art. 8. The working of the radio stations shall be organized as far as possible in such manner as not to disturb the service of other radio stations.

Art. 9. Radio stations are bound to give absolutely priority to calls of distress from whatever source, to similarly answer such calls and to take such action with regard thereto as may be required.

Art. 10. The charges for a radiogram shall comprise, according to the circumstances:

1. (a) The coastal rate, which shall fall to the coastal station;
(b) The shipboard rate, which shall fall to the shipboard station.
2. The charge for transmission over the telegraph lines, to be computed according to the ordinary rules.
3. The charges for transit through the intermediate coastal or shipboard stations and the charges for special services requested by the sender.

The coastal rate shall be subject to the approval of the Government of which the coastal station is dependent, and the shipboard rate to the approval of the Government of which the ship is dependent.

Art. 11. The provisions of the present convention are supplemented by Regulations, which shall have the same force and go into effect at the same time as the Convention.

The provisions of the present Convention and of the Regulations relating thereto may at any time be modified by the High Contracting Parties by common consent. Conferences of plenipotentiaries having power to modify the Convention and the Regulations, shall take place from time to time; each conference shall fix the time and place of the next meeting.

Art. 12. Such conferences shall be composed of delegates of the Governments of the contracting countries.

In the deliberations each country shall have but one vote.

If a Government adheres to the Convention for its colonies, possessions or protectorates, subsequent conferences may decide that such colonies, possessions or protectorates, or a part thereof, shall be considered as forming a country as regards the application of the preceding paragraph. But the number of votes at the disposal of one Government, including its colonies, possessions or protectorates, shall in no case exceed six.

The following shall be considered as forming a single country for the application of the present Article:

German East Africa

German Southwest Africa

Kamerun

Togo Land

German Protectorates in the Pacific

Alaska

Hawaii and the other American possessions in Polynesia

The Philippine Islands

Porto Rico and the American possessions in the Antilles

The Panama Canal Zone

The Belgian Congo

The Spanish Colony of the Gulf of Guinea

French East Africa

French Equatorial Africa

Indo-China

Madagascar

Tunis

The Union of South Africa

The Australian Federation

Canada

British India

New Zealand

Eritrea

Italian Somaliland

Chosen, Formosa, Japanese Sakhalin and the leased territory of Kwantung

The Dutch Indies

The Colony of Curacao

Portuguese West Africa

Portuguese East Africa and the Portuguese possessions in Asia

Russian Central Asia (littoral of the Caspian Sea)

Bokhara

Khiva

Western Siberia (littoral of the Arctic Ocean)

Eastern Siberia (littoral of the Pacific Ocean)

Art. 13. The International Bureau of the Telegraph Union shall be charged with collecting, coordinating and publishing information of every kind relating to radiotelegraphy, examining the applications for changes in the Convention or Regulations, promulgating the amendments adopted, and generally performing all administrative work referred to it in the interest of international radiotelegraphy.

The expense of such institution shall be borne by all the contracting countries.

Art. 14. Each of the High Contracting Parties reserves to itself the

right of fixing the terms on which it will receive radiograms proceeding from or intended for any station, whether on shipboard or coastal, which is not subject to the provisions of the present Convention.

If a radiogram is received the ordinary rates shall be applicable to it.

Any radiogram proceeding from a station on shipboard and received by a coastal station of a contracting country, or accepted in transit by the administration of a contracting country, shall be forwarded.

Any radiogram intended for a vessel shall also be forwarded if the administration of the contracting country has accepted it originally or in transit from a non-contracting country, the coastal station reserving the right to refuse transmission to a station on shipboard subject to a non-contracting country.

Art. 15. The provisions of Articles 8 and 9 of this Convention are also applicable to radio installations other than those referred to in Article 1.

Art. 16. Governments which are not parties to the present Convention shall be permitted to adhere to it upon their request. Such adherence shall be communicated through diplomatic channels to the contracting Government in whose territory the last conference shall have been held, and by the latter to the remaining Governments.

The adherence shall carry with it to the fullest extent acceptance of all the clauses of this Convention and admission to all the advantages stipulated therein.

The adherence to the Convention by the Government of a country having colonies, possessions or protectorates shall not carry with it the adherence of its colonies, possessions or protectorates unless a declaration to that effect is made by such Government. Such colonies, possessions and protectorates, as a whole or each of them, separately, may form the subject of a separate adherence or a separate denunciation within the provisions of the present Article and of Article 22.

Art. 17. The provisions of Articles 1, 2, 3, 4, 5, 6, 7, 8, 11, 12, and 17, of the International Telegraph Convention of St. Petersburg of July 10-22, 1875, shall be applicable to international radiotelegraphy.

Art. 18. In case of disagreement between two or more contracting Governments regarding the interpretation or execution of the present Convention or of the Regulations referred to in article 1, the question in dispute may, by mutual agreement, be submitted to arbitration. In such case each of the Governments concerned shall choose another Government not interested in the question at issue.

The decision of the arbiters shall be arrived at by the absolute majority of votes.

In case of a division of votes, the arbiters shall choose, for the purpose of settling the disagreement, another contracting Government which is likewise a stranger to the question at issue. In case of failure to agree on a choice, each arbiter shall propose a disinterested contracting Government and lots shall be drawn between the Governments proposed. The drawing of the lots shall fall to the Government within whose territory the international Bureau provided for in Article 13 shall be located.

Art. 19. The High Contracting Parties bind themselves to take, or propose to their respective legislatures, the necessary measures for insuring the execution of the present Convention.

Art. 20. The High Contracting Parties shall communicate to one another any laws already framed, or which may be framed, in their respective countries relative to the object of the present Convention.

Art. 21. The High Contracting Parties shall preserve their entire liberty as regards radio installations other than provided for in Article 1, especially naval and military installations, and stations used for communications between fixed points. All such installations and stations shall be subject only to the obligations provided for in Articles 8 and 9 of the present Convention.

However, when such installations and stations are used for public maritime service they shall conform, in the execution of such service, to the provisions of the Regulations as regards the mode of transmission and rates.

On the other hand if coastal stations are used for general public service with ships at sea and also for communication between fixed points, such stations shall not be subject, in the execution of the last named service, to the provisions of the Convention except for the observance of Articles 8 and 9 of this Convention.

Nevertheless, fixed stations used for correspondence between land and land shall not refuse the exchange of radiograms with another fixed station on account of the system adopted by such station; the liberty of each country shall, however, be complete as regards the organization of the service for correspondence between fixed points and the nature of the correspondence to be effected by the stations reserved for such service.

Art. 22. The present Convention shall go into effect on the 1st day of July, 1913, and shall remain in force for an indefinite period or until the expiration of one year from the day when it shall be denounced by any of the Contracting parties.

Such denunciation shall affect only the Government in whose name it shall have been made. As regards the other Contracting Powers, the Convention shall remain in force.

Art. 23. The present Convention shall be ratified and the ratifications exchanged at London with the least possible delay.

In case one or several of the High Contracting Parties shall not ratify the Convention, it shall nevertheless be valid as to the parties which shall have ratified it.

In witness whereof the respective plenipotentiaries have signed one copy of the Convention, which shall be deposited in the archives of the British Government, and a copy of which shall be transmitted to each Party.

Done at London, July 5, 1912.

(Signatures)¹⁵

¹⁵ Senate Documents, 3d Session 62d Congress, 10, 185.

The convention is signed by Plenipotentiaries of the following countries: Germany and the German Protectorates; The United States and the possessions of the United States; the Argentine Republic; Austria-Hungary; Bosnia-Herzegovina; Belgium; Belgian Congo; Brazil; Bulgaria; Chile; Denmark; Egypt; Spain and the Spanish Colonies; France and Algeria; French West Africa; French Equatorial Africa; Indo-China; Madagascar; Tunis; Great Britain and the various British Colonies and Protectorates; the Union of South Africa; the Australian Federation; Canada; British India; New Zealand; Greece; Italy and the Italian Colonies; Japan and for Chosen, Formosa, Japanese Sakhalin, and the leased territory of Kwangtung; Morocco; Monaco; Norway; Netherlands; Dutch Indies and the Colony of Curacao; Persia; Portugal and the Portuguese Colonies; Roumania; Russia and the Russian possessions and Protectorates; San Marino; Siam; Sweden; Turkey; and Uruguay.

The Service Regulations affixed to the Convention are contained in fifty articles and are full and technical in their provisions. The Convention and Regulations are unique in their provisions and in the general scope of the international undertaking because the service to which they apply is new and in its nature will not endure restriction by national boundaries. The radio waves pay no heed to artificial lines. The force behind them is universal and all-pervading. The service is confined to neither land nor sea, and the full benefits of its use can only be obtained through the cooperation of all the nations. It is necessary that ships on the sea be allowed to communicate with the land within the range of their installations, no matter what sovereignty it may acknowledge, that ship communicate with ship no matter what flag each flies, that costal stations communicate with the shipping within their range and that messages be transferred to wire lines when necessary to reach their destination. No other invention makes such an imperative demand for the nations to agree and cooperate as this. No nation can afford to forego the use of it, nor can it secure the full advantage of it without combining with all the other nations. International law as it existed when the invention was first made had no rules to offer. It was a blank on the subject for it knew nothing of it.

CHAPTER IX

INTERNATIONAL GOVERNMENTAL ESTABLISHMENTS

The system of diplomatic representatives of each government residing at the seat of government of every other state has resulted in the formation of a diplomatic corps in each capital, but this corps performs no function as an organized body. The members of it act separately under instructions from their respective governments and their duties are ordinarily confined to dealings with the government to which they are accredited. Unless acting under special instructions from his government the intercourse of an ambassador with members of the diplomatic corps from other countries is social rather than official. Nevertheless, matters of general interest are often discussed informally by members of the diplomatic body and to the interchange of their personal views many of the general conferences owe their origin. These have been called by the government of one or another nation and attended by plenipotentiaries of such and so many states as see fit to respond, there being no obligation on any of them to respond to the invitation. As a result of conferences so called and of the conventions agreed on and ratified in due form a number of international governmental agencies with well defined functions and continuing powers have been established at different places.

The International Bureau of Weights and Measures established at Paris under the treaty of 1875 called for an initial outlay of 400,000 francs for building and equipment and an annual expenditure of not exceeding 100,000 francs. Within its limited sphere the Bureau acts and speaks for all the nations that have joined in its creation and support. The distribution of the small burden of expenses is based on population expressed in millions among the countries divided into three classes; those in which the use of the metric system is obliga-

tory multiplied by three, those in which it is optional by two, and the others by one. The operations of the bureau are under the direction and supervision of an international committee composed of fourteen members, which in turn is under the control of a general conference of delegates of the governments which are parties to the convention.

The International Postal Union with its Bureau at Berne is peculiar in the principles of its organization and operation in several ways: It connects a great department of each government with a like department of every other government; it authorizes these departments to deal directly with each other without the intervention of either the foreign office or the diplomatic corps; it allows the postal administrations to confer with each other and make changes in the regulations governing the international service; it provides for the division of the income from a continuing business in a most surprisingly simple and satisfactory manner; it also apportions the burdens of the service in like manner; it is a great international department of government for a world that as yet has no general government; its general office is the International Bureau of the Universal Postal Union at Berne, the ordinary yearly expenses of which are limited to 125,000 francs, irrespective of the special expenses of meetings of a congress or conference. It seems almost incredible that so small a sum can be made to defray the expenses of this service. This expense is apportioned among the nations divided into seven classes. Loose as the bonds holding this organization together appear to be they have stood the strain of the great war and at its conclusion the exchange of mails goes on as before without any need of change in the system. The Universal Postal Union seems to be as firmly established as any existing governmental structure.

The International Bureau of the Telegraph Union also has its seat at Berne. By the conventions of Berlin, November 3, 1906, and London, July 5, 1912, radio telegraphy was placed under its supervision with a limitation on the expenses of the Bureau in connection with this service to 80,000 francs per year. International supervision of the service of the wireless telegraph is even more imperative than of the transmission

of mails, and this international organization appears to be a permanent one, subject however to changes and modifications.

Connected with the Foreign Office of the Government of Belgium two international bureaus have been established: one under the General Act for the Repression of the African Slave Trade; the other under the convention providing for the publication of customs tariffs. The latter provides for an estimated expenditure of 125,000 francs per year. The Slave Trade Act also provides for an international office at Zanzibar.

The International Institute of Agriculture with its seat at Rome is another governmental organization joining all the nations for the performance of a limited, though very useful service. It is declared to be a permanent institution, organized with a general assembly of representatives of all the adhering governments. The expenses are paid by the nations divided into five groups with units of assessment ranging from one to sixteen and are not to exceed 2,500 francs per unit.

Paris has a second permanent international bureau, that of Public Health. Its purpose is to collect and distribute information relating to public health and especially to infectious and contagious diseases. The annual expenses of it are estimated at, but not strictly limited to 150,000 francs.

All the foregoing organizations are designed to be world wide in their operations and some of them are so in fact. The Western Hemisphere maintains three bureaus, one at Washington, one at Habana, and one at Rio de Janeiro. These discharge useful functions under the treaties above mentioned but their operations are intended to be confined to America.

The great Hague conferences established one international organization which may in time prove to be at least the beginning of the most important of all, the Court of Arbitration, with its permanent Bureau and Administrative Council at The Hague.

Aside from these organizations with local home establishments there are others of importance: The Permanent International Commission of Congresses of Navigation; The International Geodetic Association; and the International Prison Commission. All these are designed to serve all the nations and to promote concord among them.

Neither of the above mentioned establishments exercises any arbitrary or sinister governmental power. They serve only such nations as desire and accept their services. They have no power to compel the observance by a nation of any rule, however necessary, yet the manifest advantages resulting from compliance with them affords all needed sanction for their observance. This statement applies, however, only to the operations of the international establishments. It does not apply to the rules of conduct prescribed by the great conventions relating to navigation, to sanitation, to the slave trade, to property rights, to salvage or to the performance by any nation or by any person of any duty imposed by a treaty or convention. The Hague Tribunal can act only when both parties to a controversy agree to submit their dispute to its determination. Having decided the case it has no power to enforce its judgment. Yet the advantages of the system of determining controversies by the judgment of impartial arbitrators are so great that no people ought ever to prefer a resort to war.

SUCCESES AND FAILURES OF THE GENERAL WELFARE CONVENTIONS

The first of the general welfare conventions to which attention has been called is that signed at Geneva in 1864 for the Amelioration of the Condition of the Wounded in Time of War. This convention was not promulgated in the United States until 1882, nearly four years after the promulgation of the treaty creating the Bureau of Weights and Measures. It is only a little more than forty years since the United States first took part in this kind of general international legislation. Since then the negotiation of general international conventions has proceeded at a rapidly accelerating pace. These conventions may be divided into two general classes, those relating to war or its incidents and those that do not.

The conventions relating to war may be subdivided into those designed to prevent war and those designed to mitigate its barbarities. In these the only measures proposed prior to

the great war for the purpose of preventing war were arbitration, commissions of inquiry, mediation and good offices. That these alone are insufficient to prevent a nation armed and resolved on war from carrying out its purpose has been demonstrated very conclusively by the course of events in Europe and Asia since the first Hague Conference. All thoughtful men and women realize that far more thorough and drastic measures must be applied if wars are to be prevented. Mediation and good offices have never been put forward as of any compelling force, but only as a means of conciliation under favorable conditions. More has been hoped from arbitration, but it has been demonstrated, if demonstration were necessary, that it also is wholly dependent on the consent of the parties. To be effectual arbitration must not only be compulsory, but the conditions which render wars practicable must be prevented. Compulsory arbitration by a nation provided with a great army and navy, fully equipped and ready for war, can be nothing less than war waged by the supervising power to compel submission to arbitration. The formality of agreeing to arbitrate and selecting the judges will always stand as a serious obstacle to anything like the judicial administration of international law. Within each nation courts are constituted in advance and their jurisdiction defined. Either party to a controversy may invoke judicial determination of the matter in dispute not only without the consent, but in spite of the opposition of, the other. To summon a great and powerful nation into court to answer the complaint of another may appear inconceivable to those accustomed to the exercise of arbitrary power backed by military force, but when once all nations agree to be under instead of above the law, the strength or weakness of a party to the controversy becomes unimportant. A court, to be worthy the name, must enforce the law against the most powerful just as it does against the weakest litigant. It ought to occasion no feeling of humiliation for any nation to submit any question of law or treaty obligation, or of controverted fact, to the decision of an impartial tribunal. Where the alternative of such submission is offered there can be no possible justification for resorting to war instead. The

more powerful the nation the less its justification for resorting to force. The practical difficulties connected with the selection of judges for a world court are not essentially different from those connected with the organization of national courts, but to overcome initial suspicions and jealousies and secure that feeling of confidence and security which is essential in the judicial determination of controversies will require time and the most ample publicity in all the proceedings of the court.

But a court cannot deal successfully with questions that in their nature are not justiciable. Political questions to which no clearly defined rules of law are applicable must be settled by representative bodies constituted for the purpose of dealing with such questions. Questions of autonomy, separation, combination, guardianship, armament and policing, should be determined by a representative body capable of giving expression of the combined judgment of all the nations as to the policy as well as the rightfulness of the measures proposed. Whatever the nature of the question raised, it can be disposed of better by the application of the impartial judgment of representatives of all the nations than by war.

The failure of the Hague Conventions to provide effectual means for the prevention of war is apparent. At the time these conventions were framed the nations of Europe were, and for many years had been, preparing for the great struggle that has just ended. Germany refused to reduce its armament and labored strenuously to increase it. All the other nations deemed it necessary to be prepared to meet force with force. Alliances had been formed with well defined warlike purposes. America stood aloof from European policies, confident that it was not concerned in them. The war, however, has demonstrated that all the nations are interested in the maintenance of peace everywhere.

The Red Cross organizations which have come into being pursuant to the Geneva conventions have accomplished very much good both in war and in peace. Their work has been valuable, not merely in the relief afforded to those in distress, but also in the educational influence they have exerted for the aid of the unfortunate under all kinds of calamities. While the

work of these organizations has not been discredited by the events of the war, the conventions designed to give them protection in their humane work have proved ineffectual in many instances. Hospitals, ambulances, surgeons, nurses and other persons employed in red cross work at the front have been subjected to substantially all the dangers encountered by the fighting forces. Civilians, male and female, have been deported from their homes and practically enslaved. Private property has not been respected, churches, public edifices, works of art, and private homes in untold numbers have been ruthlessly destroyed. Bombardments from the air and long range guns have been directed against the defenseless men, women, and children in their homes; poisons, gases, and liquid fire have been used without limit against the opposing army; passenger and merchant ships have been sunk without warning and peaceful neutrals in large numbers sent to watery graves. The laws of blockade and contraband, of capture and prize, of neutral and belligerent rights on sea have been utterly disregarded. Sennacherib, Saladin or Genghis Khan would have been appalled by the frightfulness of the warfare of professed Christians in the twentieth century. The efforts of the Hague Conferences, and the conference at London which resulted in the Declaration concerning the laws and customs of naval warfare to prescribe limitations to war's barbarities, have not only failed to diminish the needless evils of war, but have been followed by greater disregard of all humane restrictions on the incidents of war. It now appears to be unwise to waste time attempting to limit the savage incidents of war. Real substantial progress must be sought through some organization or agency designed to and interested in preventing war itself. It seems manifest that to accomplish the result the organization must include all the civilized nations of the world, or at least enough of them to express and enforce the combined will of a vast majority of all the people. Whatever just criticisms the proposed constitution of the league of nations may be subject to, the peace conference at which it has been formulated marks the opening of a general study by the responsible heads of the nations of the world of practical measures for the prevention of war. It

is self-evident that a first step toward the definite end of preventing wars is agreement among the nations on the desirability of the end, and a second is the acceptance by them of some plan to accomplish it. Educational influences acting throughout the entire world will be necessary in making any plan or combination efficient. In order to invoke these influences there must be presented for consideration by all people not merely the ideal of a world made up of nations dwelling in peace and harmony with each other and only combining for mutual benefit, but also a clearly defined and efficiently organized system of universal agencies designed and empowered to police the world, preserve the peace and promote the general welfare. While governments which have succeeded in establishing and maintaining peaceful relations among the people inhabiting large portions of the earth are the only available models for the greater combination including the whole earth, they deal with a multiplicity of subjects that need no consideration by the world organization.

In all ages of the world, in all stages of civilization, the method of preserving internal peace has been by the interposition of public force between private disturbers of the peace. In crude societies and petty despotisms law is merely the will of the ruler which he enforces through the agencies at his command. In advanced societies laws are enacted by law-making bodies, which are construed and applied to controversies as they arise by the judges in the courts, and their judgments are carried into effect by the executive force. To the successful working of this system it is essential that the laws, if not really just, be such as accord with the prevailing views of justice among the people concerned. In order that the courts may successfully perform their functions it is necessary that litigants have confidence in the integrity and capacity of the judges. If they have this in full measure there is little need of executive force to carry their judgments into effect. Judgments of the Supreme Court of the United States even in controversies between the great states of the Union are accepted as final and conclusive and faithfully carried out without any application whatever of physical force. The Judicial

Committee of the Privy Council of Great Britain decides questions arising in the colonies and dependencies of the British Empire in all parts of the world. These decisions are also respected by all parties interested and carried into effect without the use of force. English-speaking people everywhere are accustomed to submit to the judicial determination of all their controversies. Differences in race, language, religion and laws render it far more difficult to construct a world court which will inspire general confidence throughout all the nations than to establish a satisfactory court in a nation of homogeneous people. But no other peaceful method of settling disputes has ever been devised, and experience proves that this system is practicable and can be made thoroughly efficient.

A judicial system for the determination of questions between nations having been established, the war and navy departments of each separate nation must eventually shrivel and contract into mere police organizations for the preservation of internal peace. The monstrous diversion of men and means from peaceful activities which military and naval establishments have required in recent years will then cease. The general league when extended to include all the countries will have no need of war and navy departments. Executive functions will be shorn of their most prominent attributes, and reduced to police supervision and the execution of general welfare measures designed for the benefit of all. Growing commerce and increasing enterprises in which two or more nations are concerned will continue to demand with more and more earnestness, clearness and definiteness in international law. Questions strictly justiciable in their nature will multiply and give constant employment to international courts. Modern inventions bring all the peoples in close contact with each other and call for international codes regulating their use. World government is demanded by the spirit of the times, but not the world government of ambitious rulers. On the contrary it has been necessary to do away with all forms of arbitrary, irresponsible rulership, and substitute public agencies which merely execute the will of the people they serve. The great purpose of the league of nations is to afford the people of each and

every country full security against aggression in the place of the delusive safety their armies and navies have afforded them in the past. The ultimate guarantee of this security must come from universal recognition by all people of the moral and material soundness of the principles and purposes of the league.

The conventions which have no relation to war afford a far more cheerful subject for consideration. When it is considered that there has been no superior force to compel observance of them and that their execution has rested solely on the good faith of the parties it is most cheerful and encouraging to observe how well each nation has adhered to its agreement and how much of benefit has resulted to all concerned. The convention of 1875 which established an international bureau of weights and measures at Paris and provided standards and prototypes of weights and measures for the metric system which is in use throughout continental Europe and other countries is a very necessary measure to preserve uniformity in the basis of all computations and transactions. This convention has been ratified and proclaimed by the United States, and Congress under the powers conferred on it by the Constitution has sanctioned the use of the metric system in this country, though it has never come into general use in commercial transactions. A table showing the equivalents of the weights and measures of the metric system expressed in the denominations in use in the United States is established by law.¹ In this manner the standards and prototypes preserved by the International Bureau at Paris become the ultimate standards for our own system of weights and measures. The acts of Congress do not interfere with the use of the denominations with which the people are familiar, and, notwithstanding the far greater simplicity and convenience of the metric system, comparatively few people in the United States know much about it and the use of the old terms and units continues. England, though the leading commercial nation of the world, still adheres to an even more awkward system not only of weights and measures but also of money. The rea-

¹ Revised Statutes of the United States, §§ 3569, 3570.

son why these countries still adhere to their unscientific systems is doubtless the practical difficulty which would be encountered in educating the people to comprehend the meaning of metrical terms, and to be able to translate familiar measures into new terms.

Very many separate treaties had been made between nations for the protection of industrial property. The first convention joined in by a considerable number of states was that concluded in Paris in 1883, and referred to above. Since then successive conventions on the same subject were entered into in 1891, 1900, and 1911. The last of these was concluded at Washington by representatives of twenty powers, including all of the leading industrial nations. The first article of this convention provides—"The contracting countries constitute a state of Union for the protection of industrial property." The main purpose of all the conventions on this subject is to encourage inventors and artists by granting them a monopoly of their inventions and works for a limited time, and to protect merchants and manufacturers in the use of trade-marks. Article 14 of the last one provides for periodical revisions of the conventions by delegates appointed by the countries of the Union. As the result of these conventions and the legislation in the respective countries on the subject there is quite general uniformity in the law of all the leading countries of the world relating to the matters covered by the convention, each country according to citizens of the other countries such protection is given its own citizens in consideration of like protection for its citizens in those countries.

Pursuant to the convention of 1884 for the protection of submarine cables and the subsequent agreements and protocols on the subject cables have been laid connecting all the leading countries and instantaneous communication across the oceans is carried on continually. No other instrumentality has done so much to narrow the distance between remote nations and facilitate the transmission of intelligence and the interchange of views. Though the conventions entered into

are not universal they have been joined in by the leading nations and have answered the main purposes for which they were designed. Even the great war has caused little interruption in their use except by the Central Powers.

The general act of 1890 for the Repression of the African Slave Trade has been entirely successful so far as the trade by sea is concerned, and has taken away the main incentive from the traffic on land. The market for slaves having been cut off there is no longer any field for profitable operations by the slave catchers, and little or nothing is now heard of their operations. The moral sense of the civilized world found expression in this convention and a marked advance in civilization has resulted.

The convention of Paris of 1904 for the repression of trade in white women is another practical expression of the general sentiments of the nations on the preservation of morals and the protection of the weak against very vile traffickers.

Among the most important and far-reaching in their effects of all the conventions are those designed to prevent the spread of infectious diseases. The imperative necessity for concerted action to accomplish the purpose is obvious. The facts that these diseases originate among people whose medical organizations are not of the best and are spread by religious enthusiasts who rely for their protection more on the supernatural than on scientific measures render it necessary for the more advanced nations to act in concert and establish an efficient system of sanitation for international travel and traffic. The function of international sanitation can be efficiently performed only by an organization backed by all the nations concerned. The need is world-wide and perennial. Movements from an infected country to an uninfected one, whether by land or sea, require scientific supervision to prevent the spread of the malady. It cannot be doubted that the world will demand, not merely continuation of the measures prescribed by the last of these conventions, which is copied above, but more extended, thorough and universal organization for this purpose. All the countries of the world are interested in pre-

venting the spread, not only of plague, cholera, and yellow fever, but also of every other contagious or infectious disease. All should join in establishing and sustaining an international sanitary office with an ample medical staff and fully equipped with every appliance and supply required for its work.

The good effects resulting from the measures taken in accordance with these sanitary conventions cannot be doubted, nor can they be measured either in terms of money or of human life. They have been obtained without the sanction of any well organized governmental force having jurisdiction over the sea. Thorough and efficient execution of sanitary measures in connection with all the travel and commerce of the world requires adequate financial support of the establishment and sufficient authority in its officers to enable them to enforce necessary measures on unwilling people.

The International Institute of Agriculture performs a very useful public service for nearly all the nations at very small cost. For success in the performance of its functions it requires and will continue to require the cooperation of all the governments in gathering and disseminating information relating to agriculture. It is a valuable public agency, inexpensive, and exercising no governing functions.³

The General Act signed at Algeciras in 1906 stands on a different footing from the other conventions we are considering. Its leading purpose was to remove causes of irritation threatening the peace of Europe by intervening in the governmental affairs of Morocco and providing for the organization and supervision of its police force. While the United States is a party to this convention, it expressly disclaimed either the right or the purpose to interfere in the internal affairs of Morocco. As the sovereign of the country was a party to the convention there seemed to be no ground for objection to the arrangements provided for when they were assented to by him. If the peace of the whole world is to be maintained, similar arrangements will doubtless be required

³ *Supra*, p. 424.

in various countries which are inadequately organized for the preservation of internal peace, but the objections to outside interference in internal affairs are so fundamental that the supervising force should only be called in in case of extreme necessity and should be under the control of a general league of all the nations.

Of all the conventions heretofore entered into as general acts those relating to the safety of life at sea present most clearly the need of international legislation by a body having ample and continuing authority to make laws for the ocean and enforce them against the ships and people of all nations. Mere ethical principles do not and cannot be made to supply the rules needed. There must be positive conventional laws of conduct clearly expressed and strictly enforced. The mere purpose on the part of every master of a ship to do what is right to avoid a collision amounts to little unless all the masters learn and follow prescribed rules of safety, by the observance of which danger will be avoided. Appreciating this necessity, the leading commercial nations have enacted the regulations of the international conventions into municipal law, to be enforced on their own citizens under the sanction of adequate penalties for violations of them. Notwithstanding these enactments the need of unified authority is apparent. New inventions make new rules or modifications of old ones desirable. A single central authority representative of all parties concerned with full power to act finally for all is needed. Legislation for the ocean should be enacted by a body having governmental powers over the ocean. The laws it enacts should be binding on all people and enforceable as such. How far its authority may be safely and beneficially extended over interior waters and ports is open to serious question, but it would seem clear that it should extend over all the open sea to the three mile line from the coast. It should have ample power to do all that may reasonably be done to make navigation safe by the destruction of derelicts, by safeguarding against icebergs, by providing lights and signals in places of danger, and by removing obstructions to navigation wherever practicable.

Laws of the sea having been established by international authority, there should be courts empowered to enforce them directly on navigators of all nations. Controversies are quite as likely to arise between ships sailing under different flags as between those of the same nationality. Nationality of litigants should not affect either the jurisdiction or the action of the sea courts. Administrative bodies are needed to supervise such public works as may be undertaken and to carry into effect the measures of safety determined upon by the legislative authority. The conventions relating to the sea are all based on the fundamental principle of equality of right in the people of all nations, and of full liberty to every ship to sail where it will, provided that in so doing it does not interfere with the safety or equal right of every other ship to do the like. The principles on which they are based are sound, and the conventions themselves are not open to serious criticism in their essential features. The lack is of universality of application of their rules and of judicial and administrative forces to compel their observance.

That they have proved of the highest value is obvious. No sane man would think of dispensing with them.

Of all the international undertakings the postal organization is by far the greatest and most successful. The business of the International Postal Union is that of a common carrier with some of the functions of a banker added. In its nature it is much more a business organization than a governmental one, yet the business of handling the mails is everywhere carried on by the government. The Universal Postal Union unites the postal administrations of all the nations of the world in an organization for the transmission of mail throughout all countries that are sufficiently organized to maintain the postal service. A single stamp of the required denomination may be procured at any postoffice in any country, which, when affixed to a letter or parcel, will indicate the prepayment of all charges for its transmission and delivery at the place indicated by the address.

The first beginnings of postal service seems to have been as an organization for the transmission of public dispatches.

Such organizations were maintained by the ancient Persians, Romans and Peruvians, and by the Chinese under the Manchu dynasty. In Great Britain the service was farmed out at £10,000 a year in 1653. Postal service was established in the colonies by the British government, but had not attained a high degree of efficiency before the revolutionary war.

Prior to 1693 the postal service in the American colonies was carried on by the towns and villages. From that year till 1707 it was farmed out to Thomas Neale under a patent from the King. Andrew Hamilton, having been appointed Postmaster-General of America, established a weekly service from Portsmouth, N. H., to Virginia. In 1707 the entire postal system of America was placed under the supervision of the General Post-Office in London with John Hamilton, son of Andrew, as Postmaster-General of America at an annual salary of £200. In 1753 Benjamin Franklin and William Hunter were appointed joint Postmasters-General. In 1763 America was divided into two postal districts, northern and southern. Regular packet mail service was established between Falmouth, England, and New York in November, 1755, and continuously maintained thereafter. In 1773 the mail between New York and Philadelphia was carried every other day and between New York and New Hampshire every third day. About this time free delivery was introduced in Philadelphia. Franklin was removed from his office as one of the Postmasters-General by the British Government in 1774, and on Dec. 25, of the same year Foxcroft, who had succeeded Hunter, announced the end of the British postal system in North America. On July 26, 1775, nearly a year before the declaration of independence, the Continental Congress appointed Benjamin Franklin Postmaster-General of the Colonies. When Franklin went to Europe in 1776 his son-in-law Richard Bache succeeded him as Postmaster-General. The American Post-Office Department was established by the ordinance of October 18, 1782, which required the prepayment of postage in silver and admitted newspapers to the mails. Ebenezer Hazard was appointed Postmaster-General and under his administration an American Atlantic service was established and the domestic service extend-

ed so that, at the end of his term in 1789, there were 85 post-offices in the country, 2,399 miles of post-roads and an annual volume of business of about 300,000 letters. Prior to this date the mails had been carried almost entirely on horseback. In 1785 Congress gave the Postmaster-General power to make contracts for the transmission of mail by stage-coach. The law permanently and definitely establishing the Department was passed May 8, 1799. A service between Baltimore and Philadelphia in coaches owned by the Government was established in 1811. Two years later the Postmaster-General was authorized to make use of steamboats in the transportation of the mails. From this time on the development of the service was rapid and continual. The money-order system was established on May 17, 1864, and the special-delivery on October 1, 1883. The money-order system was in use in Europe before its adoption in the United States. Rural free-delivery was begun in 1897.⁵ Postal cards were authorized by the act of June 8, 1872, and were first issued during the following year. In the century from 1800 to 1900 the revenue of the Department grew from \$280,806, in 1800 to \$102,354,579 in 1900 and the expenditures from \$213,449 in 1900 to \$107,740,267 in 1900. The increase in the following decade was far more rapid and in 1911 the gross revenue was \$237,879,823, and expenditures \$237,648,926.⁶

The rates of postage fixed by Congress in 1789 were for single letters under 60 miles, 7.4 cents; between 60 and 100 miles, 11.1 cents; between 100 and 200 miles, 14.8 cents; and 3.4 cents for each additional 100 miles. A little later a fee of two cents was added for the delivery of letters. In 1814 rates were increased fifty per cent but the former rate was restored in 1816. In 1845 postage was placed on a weight basis, five cents for less than one-half ounce for distances not exceeding 300 miles. The rate was reduced in 1851 to three cents per half ounce for distances less than 3,000 miles. The use of postage stamps was authorized by the act of March 3, 1847, and prepayment has been required since 1855. The rate was

⁵ Messages and Papers of the Presidents XI, 691.

⁶ Statistical Abstract of 1911, 749.

reduced to two cents per half ounce on October 1, 1883, and on July 1, 1885, the unit of weight was made one ounce instead of one-half ounce on first class matter and one cent a pound on second class matter. Postoffices at Astoria, San Diego, Monterey, and San Francisco were established in 1847 and 1848, and the rate of postage between the Atlantic and Pacific coasts was fixed at 40 cents.⁷ By the act of October 3, 1917, rates of postage were increased to three cents an ounce on first class matter, and increases were also made in the rates on second class matter, but the two cent rate on letters was restored July 1, 1919. Five cents per half ounce is now the general rate between all countries of the postal Union. It will be seen that the rate on letters to the most remote parts of the world is less than it was for distances under 60 miles under the act of 1789.

The interchange of mails between the nations had made much progress before the first general convention was entered into. Many separate treaties and agreements between the different countries and postal administrations had been entered into. The organization of the Universal Postal Union came about quite naturally for the purpose of linking all the separate administrations together, expediting the international service, simplifying the system of accounting, making rates uniform, apportioning the transportation expenses, distributing the revenue derived from the service and changing and improving the system according to changes in conditions.

The first step toward the formation of a general postal union was taken at the suggestion of the Postmaster-General of the United States during the civil war, and is mentioned in the message of President Lincoln of December 8, 1863, as follows: "The international conference of postal delegates from the principal countries of Europe and America which was called at the suggestion of the Pastmaster-General met at Paris on the 11th of May last and concluded its deliberations on the 8th of June. The principles established by the conference as best adapted to facilitate postal intercourse between nations and as the basis of future postal conventions inaug-

⁷ Messages and Papers of the Presidents XI, 697.

urate a general system of uniform international charges at reduced rates of postage and cannot fail to produce beneficial results."⁸

The next step was the Postal Congress at Berne of which President Grant says in his message of December 7, 1874,—
"An international postal congress was convened in Berne, Switzerland, in September last, at which the United States was represented by an officer of the Postoffice Department of much experience and qualification for the position. A convention for the establishment of an international postal union was agreed upon and signed by the delegates of the countries represented, subject to the approval of the proper authorities of those countries."⁹

Subsequent postal Congresses were held and conventions signed at Paris, May 1, 1878, at Lisbon, Portugal, in February, 1885, at Vienna, July 4, 1891, and at Washington, June 15, 1897. In his message of December 7, 1896, President Cleveland called the attention of Congress to the convening of the Congress at Washington and said: "The Universal Postal Union which now embraces all the civilized world and whose delegates will represent 1,000,000,000 people will hold its fifth congress in the city of Washington in May, 1897. The United States may be said to have taken the initiative which led to the first meeting of this congress at Berne in 1874, and the formation of the Universal Postal Union which brings the postal service of all countries to every man's neighborhood and has wrought marvels in cheapening postal rates and securing absolutely safe mail communication throughout the world. Previous congresses have met in Berne, Paris, Lisbon and Vienna."¹⁰

It thus appears that in the period from 1874 to 1896, only twenty-two years, a complete organization throughout the whole world was effected. The Convention signed at Rome on May 26, 1896, marks the substantial com-

⁸ Messages and Papers of the Presidents, V, 3387.

⁹ Id. VI, 4250.

¹⁰ Id. VII, 6164.

pletion of the world organization. It is unique in many respects. It is the first world-wide combination ever perfected; it reaches not merely all the governments of earth with its service, but the individual citizens of all the countries; it is uniform in the service it affords under like conditions and in the charges imposed for each like service; it is simple in the principles it applies, but extremely complex in the details of its operations; it makes use of the best facilities available for the particular service; it makes the rates of postage as nearly as possible the bare cost of the service; it binds each nation to do its part in the transmission of the mails, whether its nationals are interested in the particular service or not; all must cooperate and each must do its allotted part in carrying out the great undertaking.

The principles of the Postal Union appear to be applicable to the transmission of communications by telegraph and telephone as well as of mail. Many nations do in fact operate these utilities, but they have thus far been in private hands in the United States. It is impossible to draw a clear line of demarkation between the service of the parcels post and of the common carrier of merchandise. There are many practical difficulties in the way of extending the postal service to include all kinds of merchandise in unlimited quantities, yet such service is not essentially different in its nature from that afforded in the receipt, carriage and delivery of the mails and parcels. As a result of the great war the nations have been compelled to supervise to a great extent the distribution of food in the countries devastated by war. It has been deemed necessary to do this in times of peace when a country has been threatened with famine through failure of its food crops. If the transportation service for merchandise could be organized and conducted throughout the world on the same principles and with the same efficiency as is now afforded by the postal service, many problems relating to supplies of food, of manufacturer's materials and of markets for surplus products of all kinds would be greatly simplified. Uniformity of transportation charges would tend to uniformity of prices.

By means of international money orders funds may be sent

to most of the countries. The sum to be transmitted is fixed arbitrarily by the regulations. No well defined principle would seem to indicate that the system may not be indefinitely extended until it covers the whole field of foreign exchange. Postal savings banks add to the local importance of the postal service but as yet perform no international functions.

The inherent goodness of the international postal organization is such that, notwithstanding the destruction and bitterness of feeling engendered by the great war, at its conclusion the mail service is at once resumed as fast as order is restored. The domestic administration of each country connects its service with that of its recent enemy and this one function of government again becomes world-wide in its efficiency.

NATIONAL EXPANSION

The face of the earth is not apportioned among the nations on the basis of population or with special reference to their requirements. The possessions and boundaries of a nation are in very large measure determined by its military operations, its diplomacy and its colonial policy. The density of its population depends not so much on the fertility of its soil as on the genius of its people and the nature of its industries. Manufacturing and trade tend to concentrate population in cities because very little ground is needed for their operations. It is necessary, however, that they have markets for the sale of their products and adequate sources of supplies. These may be found either within or without the political dominion of their government. The fear of unfriendly legislation by other nations with whom they trade has led most European nations to seek territorial extension over agricultural and mineral lands, so that the political organization may be able to protect the industrial enterprises. The desire of each nation to be self-sufficient appears on first impression to be natural and reasonable, but it so appears only because the importance of political functions is grossly exaggerated and the inherent strength of the bonds of common interests and mutual welfare overlooked or underrated. It is natural that the political

heads of states should feel a burden of responsibility for the prosperity of all their people and of their business enterprises, and that they should desire such extension of their territorial dominions as will enable them to act efficiently. In dealing with other sovereign powers they find themselves confronted with conflicting views of interest, if not in fact with real conflict of interests. Dealings between the nations are dependent in great measure on governmental policies. Trade regulations and restrictions may take the form of taxation of imports or exports, or of the prohibition of exportation or importation of designated articles of commerce. In recent years commercial treaties have done much to remove unreasonable burdens and hindrances of commerce, but the doctrine of absolute sovereignty over a definite portion of the earth, with power to adopt a hostile commercial policy at any time, causes continuing anxiety and desire for increased security.

The desire for an outlet for surplus population does not exert such a potent influence in favor of territorial expansion as might be expected. During the recent years of great military and naval establishments the desire of the most populous nations has been to add to their population and military force, rather than to encourage emigration. By extension of trade an increased population may be supported. So the nations of Europe seek not only agricultural districts in sparsely peopled regions in America and Africa, but political power in the densely peopled parts of Asia with which a profitable trade may be carried on.

It cannot be truly said that any European nation now has difficulty in finding an outlet for its surplus population. America, North and South, opens its doors to all Europeans on the most liberal and attractive terms, but to take full and permanent advantage of this outlet, the population of Europe will be diminished and that of America increased. National strength will be diminished by emigration and increased by immigration. Statesmen therefore desire increase rather than diminution of the numbers of their people.

The situation of Japan and China is somewhat different. Race differences and materially different habits and customs

prevent that degree of cordial welcome to them in America that is extended to Europeans, who are of the same stock as the people of America. This has led to restrictive legislation and treaty provisions denying the Asiatics free and unlimited access to this continent. Japan has of late made very rapid progress in the extension of its manufactures and trade, and appears to be rapidly increasing in prosperity. China has its congested districts, overcrowded with people, but it also has vast undeveloped resources, quite ample for the needs of all its people when properly utilized with the aid of modern machinery and transportation facilities. India also has its congested districts and its waste places. Its system of castes interposes a very serious obstacle in the way of industrial organization in accordance with western ideas. It is still, as in the earliest dawn of history, a country of vast wealth and resources and of much poverty and distress. In spite of religious differences the British Government has not only been able to maintain its political dominion over the whole country, but has been able to draw very substantial aid in men and supplies to carry on the great war.

England has acquired ample dominions beyond the seas; France has great possessions in Africa and Asia; the Netherlands has very rich possessions in Java and the East Indies; and other European states have valuable territories in distant lands. Russia before the revolution had vast undeveloped natural resources and ample room for the expansion of her population, but the interior states of Europe looked to their immediate neighbors for increase of their possessions. Turkey, the Balkan States, Greece, Italy, Hungary, Poland, Bohemia, and numerous other nations that have now or at times past had more or less extended sovereignty, are and must be limited in their territories by the boundaries of their neighbors. From the most ancient times their rulers have waged war with each other for the extension of their power, but no effort, no effusion of blood, avails to add a foot of territory to the aggregate possessions of all of them. Doubtless the people of these states have believed that they were vitally interested in increasing the dominions of their rulers. Apparently they were so while

the doctrine of absolute, independent sovereignty obtained, unmitigated by any general combination of all of them to promote the general welfare.

Commercial nations find that to attain the maximum prosperity they must be permitted to buy and sell in every part of the globe. Each country has its peculiar products and its special needs. Those engaged in the same line of production must often resort to others in the same line for supplies when their own crops fail. Maximum prosperity for all is only possible when the resources of all are fully utilized and their products distributed where they are most needed. Moral and material progress for the world do not lie along the line of extension of the political power of any nation, but of the curtailment of political powers in the separate nations and more extended combinations for mutual benefit and general welfare. The discords and wars between nations are in most cases the result of conflicting ambitions for power and desire for commercial advantages. Rome broke down the barriers in Europe and around the Mediterranean Sea by extending its dominion over all, but since its disintegration no other nation has succeeded in acquiring like dominion in Europe, though the areas of the British and Russian Empires throughout their whole extent were, prior to the war, much greater than that of the Roman ever was.

All the nations of Europe cry for expansion, and feel the stifling restrictions of national boundaries. Throughout all the centuries they have looked to the extension of their own political dominion for relief, and have waged numberless wars to gain this end, the main result of all of which has been misery and disappointment. It is clear that they have failed to choose the right road. The extension of the political power of one people over another is not even an approach toward the coveted goal. The real need is that each and every nation shall be shorn of its powers of aggression. Instead of fortifying the boundary lines and interposing barriers between nations the welfare of all demands that they be removed and increased facilities provided for crossing the borders. Railroads, wagon roads, bridges, telegraphs, telephones, and all other aids to

commerce and social intercourse should be provided to promote the general welfare of all and to break down the obstacles which political isolation interposes. The little interior states of Europe feel the constant pressing need of supplies from without: coal, iron, cotton, wool, and other raw materials for their industries, as well as food supplies for their people. No mere extension of a national boundary over a neighbor's land answers the full purpose. A full measure of prosperity demands free access to the markets of the whole world. This can not by any possibility be secured in any other way than by the friendly accord and cooperation of all the peoples. War anywhere affects the people of every country in greater or less degree. Every exchange of a surplus product of one country for the surplus of needed supplies produced by another is a net gain to both of the whole value of both products, less the costs of transportation and exchange. Mutual benefit, not the mere advantage of one party to the transaction, is the basis of all commerce. All the nations are interested in its promotion, and also in the increase of production of useful things everywhere. No more than the grand total of all that is produced can be distributed, and free access to the people of every nation must be open if the surplus from each district is to be made available to those who need it most.

Treaties and conventions dealing merely with the distribution among sovereignties of political power and dominion make no appreciable progress toward the desired end. The world-old ideal of supreme, ultimate, and absolute sovereignty in the government of each district of the earth must be abandoned, and in its place must come the ideal of universal good will and mutual help. Along these lines all nations may freely expand without encroachment on each other. The International Postal Union is a pioneer organization of the kind needed. It performs no political function, but ministers to the welfare of every nation, and is by far the greatest public agency that ever was established. The secret of its success lies in the moral and economic soundness of its purposes. The principles of its operation are applicable to all lines of commercial intercourse between peoples. Instead of directing the

energies of the governments of nations to the futile effort to gain prosperity by war's destruction, they should be directed to the promotion of commerce, good relations, and the general welfare. The last half century has witnessed remarkable progress along these lines. The general welfare treaties and conventions above reviewed and the recent treaties by which the great war has terminated indicate what has been accomplished. The advantages that have accrued to the people of the states of the American Union from the renunciation of a part of their claims of separate sovereignty and the combination of the powers of all of them for general purposes are manifested in many ways, but in none more than the obliteration of all state barriers between their citizens in their social and business intercourse. It cannot be doubted that similar advantages would accrue to the states of Europe from the removal of the obstacles which their national boundaries oppose to their intercourse with each other.

In the United States we still have as firmly fixed and definite boundaries between the states as the European nations have, and they are necessary and serve many useful purposes. The separate states regulate their local affairs in their own way and are governmental units with clearly defined territorial authority. State boundaries may be even more necessary and important in Europe, where differences in race and language accentuate their political separation, but the fundamental needs of the abdication of ultimate sovereignty and the transfer to a central authority of the power to adjust and settle all conflicting claims between them as to territory and boundaries is equally clear and imperative. The United States was possessed of a vast unsettled region of rich land. As it has been taken possession of by settlers new communities have been organized and have asked for recognition as states. The Congress is vested with power to provide for their organization and to admit them into the Union with exactly the same rights, powers, and privileges as those enjoyed by the original states. By this process the number of states has been increased from 13 to 48, covering all the contiguous territory of the nation, and leaving only Alaska and the insular possessions without such organization.

There are in Africa, Asia and the East Indies vast regions in substantially the same situation now as the western part of the territory of the United States was a hundred years ago. These regions now need policing while they are being developed into civilized communities, and ultimate incorporation and recognition as states on an equal footing with all the other states of the world. Whence shall come this supervising power, and what shall be the limitations of its authority? Manifestly not from any one nor from any exclusive group of nations. Not from any great combination of military power acting on the claim that might makes right, but from the wisdom and conscience of all the nations. By general agreement the settlement of the purely political problems relating to autonomy and boundaries of states may be delegated to a representative body chosen in such manner, with such powers, and under such limitations as may be fixed by the agreement. Perhaps it would be best that this body have no other powers or functions than these, and that the terms of service of the members of it be very strictly limited. A body truly representing the sentiments of all the nations could hardly have any other motive for its action than that of promoting the general welfare. How can a better criterion of right be established than by the judgment of all the nations expressed after consultation with each other?

It may be, it doubtless will be, the case, that questions will arise as to which no full agreement can be reached by all. The question will then be presented whether a number less than the whole shall have the power to make a decision binding on all. In the United States the principle obtains that the majority rules for the time being, and in many cases a minority casting a plurality of the votes has the power to act for all. The evil consequences of wrong decisions may ordinarily be overcome in great part by subsequent reconsideration of the question when a nearer approximation to unanimity can be obtained. So in the decision of all political questions affecting the interests of all or many of the nations the vote of a majority or even of a plurality might well be allowed to furnish a *modus vivendi* until a larger majority or unanimity can be obtained.

Mutual agreement, wherever possible, is ordinarily the best method of settling a controversy. The people directly concerned usually have a more keen appreciation of the interests involved than outsiders have. It is always of prime importance to know the views and wishes of those most directly interested in every question of autonomy or boundary before attempting to settle it. Agreement should be obtained so far as practicable, but when it cannot be obtained the representatives of all should have power to determine the issue. The earth is but just so big and its division among the people on it must be effected by themselves in some way. It is clearly the prime duty of the nations to provide the best agency they can devise to partition the land among them as justly and wisely as possible, leaving nothing to be gained by brute force or unconscionable craft.

ALLIANCES PRECEDING, DURING AND FOLLOWING THE GREAT WAR

Notwithstanding the many conventions in which all the leading nations of Europe had joined for the furtherance of their common interests along peaceful lines there were sinister alliances made in contemplation of war by which the leading powers were divided into two groups, known as the Triple Alliance and the Triple Entente; the former comprising Germany, Austria-Hungary and Italy, and the latter France, Russia and Great Britain. Germany was the dominant force in the Triple Alliance, and in accordance with the traditional policy of the Hohenzollern dynasty had during more than forty years of peace devoted the energies of its government to organization for war. The whole male population were trained soldiers and most ample supplies of arms and munitions of all kinds had been provided. Great attention was given to navigation of the air, and the Zeppelin dirigible balloons were believed to be a valuable addition to the military force of the Empire. Much progress had also been made in the construction of a navy, and especial attention was given to submarines. Care had also been taken to extend the Prussian system of military training to Turkey and Bulgaria and to procure the

appointment of German officers to commands in the Turkish army. Of the nations of the Entente France had a well trained and equipped army, much inferior in numbers to that of Germany, and a fair navy; Russia had a vast but poorly equipped army and a small navy, while Great Britain had a vast navy and very small army.

Both of these combinations were in some respects illogical and neither of them stood the strains of war to its termination. Italy declined to follow its allies into the war, and at first declared its neutrality. It afterward made a secret treaty with France and Great Britain and joined them against its former allies. Turkey and Bulgaria came to the aid of Germany and Austria-Hungary. Russia, the most absolute of all the military governments, bore the greater part of the brunt of the war during the first two years, but its alliance with the democratic nations of western Europe was so illogical that German influences gained ascendancy in the councils of the Czar and the Russian army ceased to be formidable. The revolution which caused the abdication of the Czar on March 15, 1917, resulted from the opposition of the Duma to a separate peace with Germany. The Entente gained no substantial advantage from the overthrow of the autocracy. The democratic government formed at first gave way before the assaults of the radicals and was followed by the dominance of the Bolshevik soviets and the disintegration of the Russian State. The carefully planned combinations, offensive and defensive, proved alike unstable and inefficient.

The declarations of war by Austria-Hungary on Servia on July 28, 1914, and by Germany on Russia on August 1, were immediately followed by the invasion of Belgium, a state whose neutrality had been guaranteed by Prussia, France and Great Britain. Germany had made a most careful computation of the physical forces of the states attacked, and regarded the resistance Belgium could offer as of minor concern when compared with the advantages to be gained by the occupation of its territory and the facilities its roads afforded for the invasion of France. Moral influences and the sentiments of neutral powers were deemed unworthy the consideration of

masters of the science of war. This was a fatal misconception of the spirit of the age. Germany's disregard of treaty and moral obligations arrayed the world on the side of the Belgians. It induced such a combination of nations and of moral and material forces as had never been dreamed of before. The great nations of Asia, all of North America except Mexico, and half the states of South and Central America gave their support to the cause of Belgium, with Servia, France, Great Britain, Portugal, Roumania, Montenegro, Italy and Greece. While the Asiatic, Central and South American states took little active part in the conflict, the United States at the crisis threw the vast weight of its power into the scale and soon ended the conflict. War brought together the military forces of all the continents under a single leadership. War arrayed against the four Central European Powers a war league of nearly all the other great nations of the earth. The combination of forces effected during the continuance of the war, though so vast in its proportions, did not differ materially in its methods from other military combinations which had preceded it, except as modern inventions changed the incidents of war. The Hohenzollerns and Hapsburgs were driven from the thrones of Germany and Austria-Hungary and the leadership of their great military forces. The Turkish Empire was disrupted. Nations whose political life had been crushed out by these powers rose again into being and demanded recognition. Bohemia, Poland, Finland, Esthonia, Livonia, Ukraine, and the Balkan states all present problems of national reorganization. In Asia the vast regions of Siberia, Armenia, Syria, Hedjaz and Mesopotamia present a multiplicity of governmental problems. The German colonies and protectorates in Africa and the Pacific Islands are to be administered in accordance with the views of the victors. Following such a war and the destruction of so many great military powers it is not possible to establish general peace at once by any treaty. Though the problems solved by the Peace of Westphalia and by the Congress of Vienna were difficult and complicated, the ambitions and jealousies of rulers rather than the rights and aspirations of peoples were the chief difficulties to be overcome.

The armistice agreed on by the belligerents, which put an end to the fighting between the great armies, went into effect on November 11, 1918, at 11 o'clock A.M. Its effect was to place the Central Powers at the mercy of the Allies, though it was not in terms an unconditional surrender. It did not prevent disorders and bloody conflicts within the countries whose governments had been overthrown. The task of defining the boundaries of old and new states and of regulating their relations to each other remained to be worked out at the peace table and by the League of Nations. President Wilson sailed for Europe, on December 4, 1918, and arrived in Paris on December 14. Informal conferences between the heads of the governments of the leading allied powers soon followed, and arrangements were made for the general conference of the victors to agree on the terms of peace which should be offered to the vanquished. The first formal meeting of representatives of France, Great Britain, Italy and the United States was held on January 12, 1919. The Peace Congress opened in Paris on January 18, 1919. Its composition is shown by the two first sections of the regulations adopted at this initial session, which are as follows:

Section 1. The conference assembled to fix the conditions of peace, first in the preliminaries of peace and then in the definite treaty of peace, shall include the representatives of the belligerent Allied and associated powers.

The belligerent powers with general interests, the United States of America, the British empire, France, Italy and Japan, shall take part in all meetings and commissions.

The belligerent powers with particular interests, Belgium, Brazil, the British dominions and India, China, Cuba, Greece, Guatemala, Haiti, Hedjaz, Honduras, Liberia, Nicaragua, Panama, Poland, Portugal, Roumania, Serbia, Siam and the Czecho-Slovak republic, shall take part in the sittings at which questions concerning them are discussed.

The powers in a state of diplomatic rupture with the enemy powers, Bolivia, Ecuador, Peru and Uruguay, shall take part in the sittings at which questions concerning them are discussed.

The neutral powers and states in process of formation may be heard either orally or in writing when summoned by the powers with general interests at the sittings devoted especially to the examination of questions directly concerning them, but only so far as these questions are concerned.

Sec. 2. The powers shall be represented by plenipotentiary delegates to the number of five for the United States of America, the British empire, France, Italy and Japan; three for Belgium, Brazil and Serbia; two for China, Greece, the King of Hedjaz, Poland, Portugal, Roumania, Siam and the Czecho-Slovak republic; one for Cuba, Guatemala, Haiti, Honduras, Liberia, Nicaragua and Panama; one for Bolivia, Ecuador, Peru and Uruguay.

The British dominions and India shall be represented as follows: Two delegates each for Australia, Canada, South Africa and India, including the native states; one delegate for New Zealand.

Although the number of delegates may not exceed the figures above mentioned, each delegation has the right to avail itself of the panel system. The representation of the dominions, including New Foundland and of India, may be included in the representation of the British empire by the panel system.

Montenegro shall be represented by one delegate, but the rules concerning the designation of this delegate shall not be fixed until the moment when the political situation of this country shall have been cleared up.

The conditions of the representation of Russia shall be fixed by the conference at the moment when the matters concerning Russia are examined.

M. Clemenceau, Premier of France, was chosen permanent chairman of the Congress. How world-wide the combination was that brought about the overthrow of the Central Powers appears from the list of nations admitted to participation in the preparation of the treaty to be presented to them for acceptance. The list of belligerent powers entitled to full representation includes eight old and two new European states; all the great nations of Asia except Persia; the two greatest republics of America; Cuba and Haiti in the West Indies; and four of the Central American states. Russia and Montenegro, which had been active participants in the war, were left in abeyance so far as representation in the Congress was concerned because of the uncertainty of their governmental situations. The purpose of the Congress being not only to conclude a treaty of peace between the nations which had been at war with each other, but also to effect a permanent organization among themselves and ultimately with all the other nations of the world, provision was made in these regulations for hearing the neutral powers and states in process of formation on matters concerning them. The disordered conditions prevailing in Central and Eastern Europe rendered it imprac-

licable to admit their representatives to full participation in the work of the Congress, which did not admit of long delay. Treaties terminating wars between only two nations have seldom effected a permanent settlement of the causes of controversy between them. Rome and Carthage waged successive wars until Carthage was destroyed. France and Great Britain warred with each other through many centuries. The French and Germans have fought each other along the Rhine at longer or shorter intervals for two thousand years. Since the treaty establishing the independence of the United States successive controversies with Great Britain have arisen concerning the construction of treaties, boundaries and rights on sea and land, resulting in only one war, that of 1812, but of such gravity as to render resort to arbitration necessary to settle them. The very great complication of questions now to be considered makes it apparent that no final adjustment of all the relations of the many states which are parties to the treaty can possibly be made by a single treaty or by any set of treaties that can be formulated now. It is clearly manifest that the best that can be done is to form an organization which will be competent to deal with unsolved problems and new questions that will arise hereafter.

The private relations of men to each other are adjusted in a very great majority of instances by mutual agreement of the parties, but in every country and in every stage of civilization there is a very small per centage of dealings and circumstances which give rise to controversies that the parties cannot settle by agreement. One of the prime functions of civil government is to provide rules for the determination of such controversies, and impartial, disinterested tribunals to apply such rules to the states of fact giving rise to them. The parties to the controversy are compelled to submit to the judgment of a court whose judgment stands as the expression of the public sense of right in the case. Where no such tribunals are established and each party to a controversy is left to enforce his rights, strife and feuds soon put an end to all prosperity and security.

A large majority of the questions arising between nations are also settled by agreement or compromise, but the few re-

maining ones give rise to wars which are liable to bring disaster not only to the belligerents but also to their neutral neighbors. The need of settled law and of tribunals to apply it to the affairs of nations is just as imperative as to private concerns. It is beyond the capacity of any man or set of men to foresee what controversies will arise in the future and settle them in advance. The most that has yet been done within the nations is to establish general rules of right and of conduct and provide agencies for their enforcement. Similarly, the best that can be done now for the regulation of the conduct and determination of the rights of nations and the prevention of conflicts between them is to fix their present status and provide general agencies competent to deal with and dispose of all matters affecting common interests and the relation of states to each other as need therefor may arise in the future.

Great progress has been made in recent years in combinations of sovereign states for common purposes. The American colonies became separate sovereign states at the conclusion of the Revolutionary War. They found it necessary to join together under a written constitution, which preserved their separate sovereignty for all local purposes, but delegated general sovereignty for common purposes to the United States. Thirty-five new sovereign states have since been added to the original thirteen. Congress and the Federal Courts are competent to determine every question of relation between the states, and the general government speaks for all in dealings with other nations.

The British government is built on similar though not identical principles. Its self-governing colonies regulate their internal affairs in their own way, but the central power, the Parliament, Privy Council and Courts, are vested with authority to settle all questions concerning their relations to each other, and to speak for all in dealings with other nations. Of late the colonies have been consulted when treaties affecting their interests have been under consideration. The great international conventions which are considered above were steps in the direction of general international organization, though incomplete and rudimentary. The extent of the combination

of powers effected during the prosecution of the war, the complete disruptions of the governments which before the war ruled so large a part of the earth, the invention of submarines, air crafts, wireless telegraphs, deadly gases and other destructive agencies, and the rising demands of the great multitudes who bear the burdens of war for recognition of their rights and protection from such calamities in the future, presented a situation essentially different from that which had ever confronted a peace congress. Immediate adjustment of boundaries in accordance with the wishes of the people occupying border districts was impossible, for no fair expression of their wishes could be obtained until order was established. The collection and distribution of compensation for the destruction of property, for the lives of civilians and their enforced servitude, the regulation of the use of ports, navigable rivers and international thoroughfares, the administration of protectorates in unorganized districts, the reduction of armaments and other apparent needs of the immediate future, rendered a general and continuing organization an imperative necessity. The task of effecting such an organization was rendered doubly difficult by the condition of disorganization prevailing in so large a part of the world, which prevented a fair representation of all the nations in the conference. The initiative was taken by the five great powers, Great Britain, France, Japan, Italy and the United States. The Peace Congress was a diplomatic rather than a legislative gathering, yet the exigencies of the situation forced it to assume the functions of a constitutional convention, charged with the task of inaugurating a new and better system of adjusting the relations of nations to each other. The disorganized state of so many nations rendered it impossible to organize a universal congress at once, yet enduring peace is not to be hoped for unless the League accords to every nation fair representation in it. The Peace Congress, being merely a diplomatic body, could not decide any question by a majority vote, but required the consent of every nation that is to be bound by its action. Any small nation could refuse to become a party to the treaty presented for its acceptance, but no nation, great or small, can hope for any substantial

advantage through independent action. If permanent peace and prosperity is to be secured it is clearly manifest that there must be concord among all the nations, and it is equally manifest that this can only be obtained if all people are treated justly and find in the League advantages or security which they could not provide for themselves as separate states. Mastery of one or a few great nations through the instrumentality of a League of all would be as distasteful and as likely to provoke resistance as the domination of one great power. Equality of right in great and small nations is essential, but this cannot be made the basis of a valid claim for equality of representation and influence for a small state with few people with a great nation made up of many states and great numbers of people. Regard for existing sovereignties cannot be allowed to wholly override the rights of the great multitudes who speak through a single national government. Probable future development of sparsely peopled countries must be taken into account. The principles applied by the United States in the admission of new states are applicable to future admissions to the League of Nations. The rights of people rather than of places or names will always be paramount.

The first task undertaken by the Peace Conference was that of formulating a constitution for the League of Nations. A draft was unanimously agreed on by the committee in charge of the work and reported to the general conference by President Wilson on February 14, 1919. It was then made public and submitted to general criticism. After much public discussion of the terms of the covenant some changes were made and on April 28, 1919, a revised draft was adopted by the Peace conference without any dissent. It is entitled "The Covenant of the League of Nations" and appears as Part I of the Treaty of Peace with Germany.

THE TREATY OF PEACE WITH GERMANY

An unprecedented war called for an unprecedented treaty. The war was instituted by the leaders of great military organizations for the purpose of extending their power. It resulted in the overthrow of these leaders. The failure of com-

binations of powers based on the theory of balance of power to preserve peace was abundantly proved by the war. The combination of forces that finally brought the war to an end was world wide. In order to make a treaty of peace for all the nations involved in the war it was necessary to bring to the conference representatives of the leading nations of every continent. The old system of military organization within each state for its own protection against all others either separately or in combination with others, with accepted principles of international law which accorded to each nation and combination of nations the right to go to war whenever and for whatever cause it saw fit was thoroughly discredited. A better combination of states and more enlightened theories of international law were imperatively demanded. Manifestly the only combination adequate for the preservation of peace and order throughout the whole world is one which includes all the nations. Manifestly this combination must be guided by principles of right and justice and must utterly discredit the claim that might is right. But the mere assertion of abstract principles is inadequate for the preservation of order in a world accustomed to the exercise of so much arbitrary power. General agencies representing and acting in the interest of all for the determination and enforcement of the rights of each are needed.

Recognizing these truths the first work of the Peace Conference was the formulation of the Covenant of the League of Nations, which was incorporated in the treaty prepared by the victors as Part I and submitted to Germany for its acceptance. This Covenant is not merely a device for the purpose of regulating the relations of the allies to Germany, but is designed quite as much to preserve peace between the allied nations themselves and in fact between all the nations of the world, whether parties to the treaty or not, and is designed to ultimately become a general treaty between all the nations. The agencies which this covenant provides for are consultative and advisory rather than governmental, yet it is by no means certain that they will not prove more efficient than if clothed with full power of final decision and action. The remarkable

changes in conditions resulting from the use of modern inventions and the rapid development of new means of travel and intercourse render it certain that many new questions will arise which can best be dealt with by consultative bodies which consider the general interest and recommend rather than dictate the course to be pursued. The dominant purpose in forming the League is to prevent future wars. For the first time in the history of the world this Covenant undertakes to establish agencies, in which all the nations will be represented, whose duty it will be to take cognizance of every condition calculated to produce war and to recommend action which will prevent it. It recognizes the fact that all great wars are preceded by military organization and preparation for them and undertakes to cause the disarmament of existing military organizations and the prevention of future ones. It recognizes arbitration and the judicial determination of disputes between nations as the alternatives to be substituted for self-help by the aggrieved nation. While it does not establish a world government with definite powers, it recognizes the unity of interest of the whole world in the preservation of peace in every part of it. The Assembly, provided for in the Covenant, being essentially a gathering of diplomatic representatives of all the nations, will be competent to recommend all needed improvements in the constitution of the League as well as the establishment of the agencies needed from time to time to deal with conditions as they arise. Europe, Asia, North and South America are each represented on the Council, whose decisions must in general be unanimous. As the nations represented on the Council constitute an overwhelming preponderance of force, its unanimous decisions concerning any matter affecting the peace are likely to be accepted by the parties immediately concerned.

By Article 4 it is provided that the Council of the League of Nations shall formulate and submit to the members for adoption plans for the establishment of a Permanent Court of International Justice, competent to hear and determine any dispute of an international character the parties thereto submit to it. This falls far short of full judicial powers, for such a

court would have no jurisdiction over an unwilling party. With powers so limited such a court would have no jurisdiction over the matters that gave rise to the great war. Jurisdiction over an unwilling party is essential to full efficiency in an international tribunal.

Great care is taken to provide for the disarmament of Germany and to prevent the reorganization of its military, naval and air forces. The disarmament of the Allies and the prevention of future wars between them is of equal importance, but the accomplishment of it is entrusted to the League of Nations. For the preservation of peace it is also necessary that Germany be protected from future injustice and aggression by its neighbors. The essence of the problem is to provide means to insure just treatment to all without regard to their relation to the war.

The powers conferred on the Reparation Commission are very broad and their limits not clearly defined. This is due to the very great destruction wrought by the war and the recognized inability of Germany and her allies to make full restitution. The ultimate limit of liability is therefore recognized in the treaty as dependent on the ability of Germany to pay, rather than on the extent of the losses. It is recognized that the people of Germany must not only be allowed to live, but to live under such conditions that they can perform the obligations imposed on them. Real friendly relations between the nations opposed to each other in the war are essential to the general welfare, and this condition cannot be expected unless the people of Germany as well as of the other states have grounds to hope for improvement in their situation as their obligations under the treaty are discharged.

The League of Nations is designed to ultimately include all the nations of the earth and to bring together their representatives in a general Assembly to be held at stated intervals. While most of the provisions of the treaty are to be carried into effect under the supervision of commissions and agencies appointed by the victors, there are many future contingencies to be provided for by the League. Its initial membership includes only signatories of the treaty on the part of the Allied

and Associated Powers, and at this time is is therefore merely the parties of the first part to the treaty, but the neutral nations are invited to adhere to it and Spain, which is not a signatory power, is accorded a place on the Council. This gives representation at once to the neutral powers if Spain sees fit to adhere to the covenant. The League is mentioned in many parts of the treaty following the Covenant and has very important duties to perform in connection with the government of the Saar Basin, the free city of Dantzig, the reduction of armaments in states other than Germany, the government of former German territories through mandatory powers under its direction, in reference to the navigable rivers of Europe, in the settlement of disputes that may arise with regard to the interpretation and application of the articles of the treaty, and in reference to the organization of labor, the General Conference of Members with reference thereto, and the International Labor Office.

The treaty lays down many rules for the determination of private rights which have been affected by the war. Clearing offices are authorized through which claims by and against citizens of Germany and of each of the allied powers may be settled and taken into the general account between Germany and its former enemies. The provisions concerning commercial relations, debts, property, rights and interests, contracts, prescriptions, judgments and insurance, constitute a considerable code of laws for the determination of questions arising between the nationals of the opposing parties.

Part XIII relating to Labour deals with a subject of great importance to the peace of the world in a broad and general way and in connection with the League of Nations. The provisions of this part of the treaty have no special application to Germany or to its relation to the Allied Powers, but appear of great importance in connection with the social and labor conditions prevailing in Europe generally.

The Covenant of the League of Nations is not framed as a measure especially adapted for inclusion in the treaty with Germany but is equally applicable to the relations between all other nations. In the succeeding parts of the treaty various

matters to arise in the future are referred to the League for consideration. Viewed as a whole the treaty is remarkable for the great number of agencies which it establishes for the determination of different questions and the regulation of matters affecting the interests of two or more states. There are very many matters of which the treaty itself does not undertake to make final disposition, but which are referred to the determination of the people immediately concerned or to a commission created to deal with the particular matter. While the treaty is in all its essential features the work of the allied and associated powers, it contains many provisions which must ultimately prove quite as beneficial to the German people as to those of any other country. The provisions for disarmament will at once relieve them from supporting the vast military establishment which was a crushing burden on all except the rich and dominant elements before the war. Relief from this burden will be no small compensation for the burden imposed for reparation of the destruction and wrongs perpetrated in the war.

Part II of the treaty deals with the boundaries of Germany but does not fix them definitely in all places. It reduces the territory formerly included in the German Empire by restoring to France the frontier from Luxemburg to Switzerland as it existed in 1870, and by concessions to Belgium, Denmark and the new states of Czecho-Slovakia and Poland. The territory west of the Rhine remains in the military occupation of the Allies pending fulfillment of the terms of the treaty, and Germany is forbidden to maintain or construct any fortifications in it or within 50 kilometers east of the Rhine. In compensation for the mines in French territory destroyed during the war Germany cedes to France the coal mines of the Saar Basin, the definite boundaries of which are to be traced by a commission of five members, one appointed by France, one by Germany and the other three by the Council of the League of Nations. The government of this territory is ceded by Germany to the League of Nations as trustee, which is to appoint a governing commission of five members. At the end of fifteen years the people of the Basin are to decide by votes taken by

communes or districts on the sovereignty under which they will be placed; all persons without distinction of sex twenty years old at the date of the voting, who resided in the territory when the treaty was signed, are entitled to vote. The result of the election is to be ascertained and declared by the League of Nations. The provisions with reference to the restoration of Alsace and Lorraine to France are quite full and, except in matters connected with the use of the Rhine, which are placed under the control of the Central Rhine Commission, dispose of all the important matters connected with the change of sovereignty. The independence of the Czecho-Slovak State and of Poland is recognized and Danzig is made a free city. A commission is provided to settle the frontier between Belgium and Germany in accordance with the terms of the treaty. A commission of seven members, five of them nominated by the allied and associated powers and one each by Poland and Czecho-Slovakia is provided to trace on the spot the frontier between these countries. The determination of boundaries and the allegiance of the people is left to their votes in border districts as between Germany and Poland, in East Prussia, and upper Silesia, and as between Germany and Denmark in Schleswig. These votes are to be taken under the supervision of commissions provided for in the treaty.

Many commissions are to be constituted for various purposes, some temporary and some continuing. Besides those already named there is one of seven members to delimit the frontier between Germany and Poland, a commission of four to be designated by the United States, France, Great Britain and Italy to supervise the elections determining the nationality of the border district between Germany and Poland, a commission of five to supervise the elections in the border district between Poland and East Prussia, a commission of three to delimit the frontier of the territory assigned to the city of Dantzig, a commission of five of which Norway and Sweden will be asked to designate a member to supervise the election in Schleswig, a commission of seven to trace the line of this frontier after it has been determined by the election, the Inter-Allied Commission of Control to supervise the delivery, dem-

olition and rendering things useless to be carried out at the expense of the German Government, the Military Inter-Allied Commission of Control to deal with the enforcement of all the military clauses of the treaty, the Naval Inter-Allied Commission of Control to see to the execution of the naval clauses, the Aeronautical Inter-Allied Commission of Control to deal with the execution of the air clauses, a commission of representatives of the Allied and Associated Powers and of Germany with a Sub-Commission of representatives of each interested power to look after the repatriation of prisoners of war, the Reparation Commission, the International Commission for the Elbe, the International Commission for the Oder, an International Commission for the Niemen on request of any riparian state, an International Commission of the Danube, a commission to delimit free zones in the ports of Hamburg and Stettin, commissions of experts to apportion the rolling stock on railways in territories the sovereignty of which is transferred by the terms of the treaty, and Commissions of Enquiry to consider complaints made to the International Labor Office. Of these commissions the Reparation Commission is of the most present importance. It is to be composed of delegates nominated by the United States, Great Britain, France, Italy, Japan, Belgium and the Serb-Croat-Slovene State, and have its principal permanent Bureau in Paris. This Commission is authorized to determine the amount of damages for which compensation is to be made by Germany and to supervise the restorations and payments to be made in accordance with the terms of the treaty, and is given power to appoint committees, officers, agents and employees to aid in the execution of its functions.

The treaty provides for the appointment of other tribunals and agencies as follows: A special tribunal for the trial of William II of Hohenzollern to be composed of five judges appointed one each by the United States, Great Britain, France, Italy and Japan; Clearing Offices to be established by each of the parties to the treaty for the collection and payment of enemy debts; a Mixed Arbitral Tribunal to be established between each of the Allied and Associated Powers and Germany, com-

posed of three members; a General Conference of Representatives of the Members of the League of Nations for the consideration of labor problems; and an International Labor Office.

Many treaties and conventions, more or less general in character, which were entered into prior to the war, are recognized as continuing in force, while others are abrogated in whole or in part. The treaties made during the war with Austria, Hungary, Bulgaria and Turkey are abrogated, as also are all treaties made before and during the war with Russia or any state or government of which the territory previously formed a part of Russia, or with Roumania.

Though the treaty is very long it contains little needless verbiage. The great number of parties to it, the multiplicity of subjects dealt with, and more than all the fundamental theories and purposes which underlie it, require elaboration which is unusual in peace treaties. In order to gain a fair understanding of its provisions it is necessary to study the full text. No brief summary can be made to convey a clear understanding of the many matters of vast and continuing importance it deals with. It recognizes the interest of each nation in the preservation of peace throughout the world and that henceforth there can be no such thing as national isolation. It condemns war as a means of furthering national ambitions and provides for the punishment of those who have violated treaties and committed barbarities which are condemned by the laws of war. Its long stride forward is not made by recognition of moral principles, by provisions for punishments and restitution, or by tying the hands of the power that instituted the war, but by the establishment of a concert of all the powers and the creation of agencies especially charged with the duty of discovering the germs of war and taking measures to prevent their growth and fruition. Just conceptions of the true relations of states to each other are not easily given application at the conclusion of a war of such character and magnitude, but the admission of Germany and its allies into the League of Nations will render it possible to obtain relief from whatever of unnecessary harshness may be found in the terms of peace. The reparations re-

quired from Germany are far less than would be required of a private person for damages resulting from his wrongdoing by any court of law. The general rule everywhere is that a malefactor must make full compensation for all the consequences of his wrongful acts, yet the evil consequences of a great war are incapable of measurement or adequate compensation. A treaty of peace must look to the restoration of friendly relations and the mutual welfare of all. By joining in common enterprises for mutual benefit, by looking beyond the artificial national entity to the mass of humanity behind it, by observance of policies and principles that promote the material interests of all, and by earnest effort to find and apply to the relations of nations to each other, to the relations of the people of different nations to each other, and to all human affairs, the true principles ordained by the Creator, the true interests of each nation and of its people will be subserved. The great conventions considered in the preceding pages, most of which are expressly confirmed by this treaty, evidence the growing consciousness of the interdependence of nations. This treaty and the Covenant of the League of Nations with which it opens mark a great advance in world organization, yet are hardly more than the initial step in the path which leads to permanent peace and universal friendship and cooperation. The full text of the treaty follows.

TREATY OF PEACE

THE UNITED STATES OF AMERICA, THE BRITISH EMPIRE, FRANCE, ITALY and JAPAN,

These Powers being described in the present Treaty as the Principal Allied and Associated Powers,

BELGIUM, BOLIVIA, BRAZIL, CHINA, CUBA, ECUADOR, GREECE, GUATEMALA, HAITI, THE HEDJAZ, HONDURAS, LIBERIA, NICARAGUA, PANAMA, PERU, POLAND, PORTUGAL, ROUMANIA, THE SERB-CROAT-SLOVENE STATE, SIAM, CZECHO-SLOVAKIA and URUGUAY,

These Powers constituting with the Principal Powers mentioned above the Allied and Associated Powers,

of the one part;

And GERMANY,

of the other part;

Bearing in mind that on the request of the Imperial German Government an Armistice was granted on November 11, 1918, to Germany by the Principal Allied and Associated Powers in order that a Treaty of Peace might be concluded with her, and

The Allied and Associated Powers being equally desirous that the war in which they were successively involved directly or indirectly and which originated in the declaration of war by Austria-Hungary on July 28, 1914, against Serbia, the declaration of war by Germany against Russia on August 1, 1914, and against France on August 3, 1914, and in the invasion of Belgium, should be replaced by a firm, just and durable Peace,

For this purpose the HIGH CONTRACTING PARTIES represented as follows:

THE PRESIDENT OF THE UNITED STATES OF AMERICA, by:

The Honourable Woodrow Wilson, President of the United States, acting in his own name and by his own proper authority;

The Honourable Robert Lansing, Secretary of State;

The Honourable Henry White, formerly Ambassador Extraordinary and Plenipotentiary of the United States at Rome and Paris;

The Honourable Edward M. House;

General Tasker H. Bliss, Military Representative of the United States on the Supreme War Council;

HIS MAJESTY THE KING OF THE UNITED KINGDOM OF GREAT BRITAIN AND IRELAND AND OF THE BRITISH DOMINIONS BEYOND THE SEAS, EMPEROR OF INDIA, by:

The Right Honourable David Lloyd George, M. P., First Lord of His Treasury and Prime Minister;

The Right Honourable Andrew Bonar Law, M. P., His Lord Privy Seal;

The Right Honourable Viscount Milner, G. C. B., G. C. M. G., His Secretary of State for the Colonies;

The Right Honourable Arthur James Balfour, O. M., M. P., His Secretary of State for Foreign Affairs;

The Right Honourable George Nicoll Barnes, M. P., Minister without portfolio;

And

for the DOMINION of CANADA, by:

The Honourable Charles Joseph Doherty, Minister of Justice;

The Honourable Arthur Lewis Sifton, Minister of Customs;

for the COMMONWEALTH of AUSTRALIA, by:

The Right Honourable William Morris Hughes, Attorney-General and Prime Minister;

The Right Honourable Sir Joseph Cook, G. C. M. G., Minister for the Navy;

for the UNION OF SOUTH AFRICA, by:

General the Right Honourable Louis Botha, Minister of Native Affairs and Prime Minister;

Lieutenant-General, the Right Honourable Jan Christiaan Smuts, K. C., Minister of Defence;

for the DOMINION of NEW ZEALAND, by:

The Right Honourable William Ferguson Massey, Minister of Labour and Prime Minister;

for INDIA, by:

The Right Honourable Edwin Samuel Montagu, M. P., His Secretary of State for India;

Major-General His Highness Maharaja Sir Ganga Singh Bahadur, Maharaja of Bikaner, G. C. S. I., G. C. I. E., G. C. V. O., K. C. B., A. D. C.;

THE PRESIDENT OF THE FRENCH REPUBLIC, by:

Mr. Georges Clemenceau, President of the Council, Minister of War;

Mr. Stephen Pichon, Minister for Foreign Affairs;

Mr. Louis-Lucien Klotz, Minister of Finance;

Mr. André Tardieu, Commissary General for Franco-American Military Affairs;

Mr. Jules Cambon, Ambassador of France;

HIS MAJESTY THE KING OF ITALY, by:

Baron S. Sonnino, Deputy;

Marquis G. Imperiali, Senator, Ambassador of His Majesty the King of Italy at London;
Mr. S. Crespi, Deputy;

HIS MAJESTY THE EMPEROR OF JAPAN, by:

Marquis Saionzi, formerly President of the Council of Ministers;
Baron Makino, formerly Minister for Foreign Affairs, Member of the Diplomatic Council;
Viscount Chinda, Ambassador Extraordinary and Plenipotentiary of H. M. the Emperor of Japan at London;
Mr. K. Matsui, Ambassador Extraordinary and Plenipotentiary of H. M. the Emperor of Japan at Paris;
Mr. H. Ijuin, Ambassador Extraordinary and Plenipotentiary of H. M. the Emperor of Japan at Rome;

HIS MAJESTY THE KING OF THE BELGIANS, by:

Mr. Paul Hymans, Minister for Foreign Affairs, Minister of State;
Mr. Jules van den Heuvel, Envoy Extraordinary and Minister Plenipotentiary, Minister of State;
Mr. Emile Vandervelde, Minister of Justice, Minister of State;

THE PRESIDENT OF THE REPUBLIC OF BOLIVIA, by:

Mr. Ismael Montes, Envoy Extraordinary and Minister Plenipotentiary of Bolivia at Paris;

THE PRESIDENT OF THE REPUBLIC OF BRAZIL, by:

Mr. Joao Pandiá Calogeras, Deputy, formerly Minister of Finance;
Mr. Raul Fernandes, Deputy;
Mr. Rodrigo Octavio de L. Menezes, Professor of International Law of Rio de Janeiro;

THE PRESIDENT OF THE CHINESE REPUBLIC, by:

Mr. Lou Tseng-Tsiang, Minister for Foreign Affairs;
Mr. Chengting Thomas Wang, formerly Minister of Agriculture and Commerce;

THE PRESIDENT OF THE CUBAN REPUBLIC, by:

Mr. Antonio Sánchez de Bustamante, Dean of the Faculty of Law in the University of Havana, President of the Cuban Society of International Law;

THE PRESIDENT OF THE REPUBLIC OF ECUADOR, by:

Mr. Enrique Dorn y de Alsúa, Envoy Extraordinary and Minister Plenipotentiary of Ecuador at Paris;

HIS MAJESTY THE KING OF THE HELLENES, by:

Mr. Eleftherios K. Venisélou, President of the Council of Ministers;
Mr. Nicolas Politis, Minister for Foreign Affairs;

THE PRESIDENT OF THE REPUBLIC OF GUATEMALA, by:

Mr. Joaquin Méndez, formerly Minister of State for Public Works and Public Instruction, Envoy Extraordinary and Minister Plenipotentiary of Guatemala at Washington, Envoy Extraordinary and Minister Plenipotentiary on special mission at Paris;

THE PRESIDENT OF THE REPUBLIC OF HAITI, by:

Mr. Tertullien Guilbaud, Envoy Extraordinary and Minister Plenipotentiary of Haiti at Paris;

HIS MAJESTY THE KING OF THE HEDJAZ, by:

Mr. Rustem Haidar;
Mr. Abdul Hadi Aouni;

THE PRESIDENT OF THE REPUBLIC OF HONDURAS, by:

Dr. Policarpo Bonilla, on special mission to Washington, formerly President of the Republic of Honduras, Envoy Extraordinary and Minister Plenipotentiary;

THE PRESIDENT OF THE REPUBLIC OF LIBERIA, by:

The Honourable Charles Dunbar Burgess King, Secretary of State;

THE PRESIDENT OF THE REPUBLIC OF NICARAGUA, by:

Mr. Salvador Chamorro, President of the Chamber of Deputies;

THE PRESIDENT OF THE REPUBLIC OF PANAMA, by:

Mr. Antonio Burgos, Envoy Extraordinary and Minister Plenipotentiary of Panama at Madrid;

THE PRESIDENT OF THE REPUBLIC OF PERU, by:

Mr. Carlos G. Candamo, Envoy Extraordinary and Minister Plenipotentiary of Peru at Paris;

THE PRESIDENT OF THE POLISH REPUBLIC, by:

Mr. Ignace J. Paderewski, President of the Council of Ministers, Minister for Foreign Affairs;

Mr. Roman Dmowski, President of the Polish National Committee;

THE PRESIDENT OF THE PORTUGUESE REPUBLIC, by:

Dr. Affonso Augusto da Costa, formerly President of the Council of Ministers;

Dr. Augusto Luiz Vieira Soares, formerly Minister for Foreign Affairs;

HIS MAJESTY THE KING OF ROUMANIA, by:

Mr. Ion I. C. Bratiano, President of the Council of Ministers, Minister for Foreign Affairs;

General Constantin Coanda, Corps Commander, A. D. C. to the King, formerly President of the Council of Ministers;

HIS MAJESTY THE KING OF THE SERBS, THE CROATS, AND THE SLOVENES, by:

Mr. Nicolas P. Pachitch, formerly President of the Council of Ministers;

Mr. Ante Trumbic, Minister for Foreign Affairs;
Mr. Milenko Vesnitch, Envoy Extraordinary and Minister Plenipotentiary of H. M. the King of the Serbs, the Croats and the Slovenes at Paris;

HIS MAJESTY THE KING OF SIAM, by:

His Highness Prince Charoon, Envoy Extraordinary and Minister Plenipotentiary of H. M. the King of Siam at Paris;
His Serene Highness Prince Traidos Prabandhu, Under Secretary of State for Foreign Affairs;

THE PRESIDENT OF THE CZECHO-SLOVAK REPUBLIC, by:

Mr. Karel Kramár, President of the Council of Ministers;
Mr. Eduard Benes, Minister for Foreign Affairs;

THE PRESIDENT OF THE REPUBLIC OF URUGUAY, by:

Mr. Juna Antonio Buero, Minister for Foreign Affairs, formerly Minister of Industry;

GERMANY, by:

Mr. Hermann Müller, Minister for Foreign Affairs of the Empire;
Dr. Bell, Minister of the Empire;

Acting in the name of the German Empire and of each and every component State,

WHO having communicated their full powers found in good and due form have AGREED AS FOLLOWS:

From the coming into force of the present Treaty the state of war will terminate. From that moment and subject to the provisions of this Treaty official relations with Germany, and with any of the German States, will be resumed by the Allied and Associated Powers.

PART I.

THE COVENANT OF THE LEAGUE OF NATIONS.

THE HIGH CONTRACTING PARTIES,

In order to promote international co-operation and to achieve international peace and security

by the acceptance of obligations not to resort to war,
by the prescription of open, just and honourable relations between nations,
by the firm establishment of the understandings of international law as the actual rule of conduct among Governments, and by the maintenance of justice and a scrupulous respect for all treaty obligations in the dealings of organised peoples with one another,

Agree to this Covenant of the League of Nations.

ARTICLE 1.

The original Members of the League of Nations shall be those of the Signatories which are named in the Annex to this Covenant and also such of those other States named in the Annex as shall accede without reservation to this Covenant. Such accession shall be affected by a Declaration deposited with the Secretariat within two months of the coming into force of the Covenant. Notice thereof shall be sent to all other Members of the League.

Any fully self-governing State, Dominion or Colony not named in the Annex may become a Member of the League if its admission is agreed to by two-thirds of the Assembly, provided that it shall give effective guarantees of its sincere intention to observe its international obligations, and shall accept such regulations as may be prescribed by the League in regard to its military, naval and air forces and armaments.

Any Member of the League, may, after two years' notice of its intention so to do, withdraw from the League, provided that all its international obligations and all its obligations under this Covenant shall have been fulfilled at the time of its withdrawal.

ARTICLE 2.

The action of the League under this Covenant shall be effected through the instrumentality of an Assembly and of a Council, with a permanent Secretariat.

ARTICLE 3.

The Assembly shall consist of Representatives of the Members of the League.

The Assembly shall meet at stated intervals and from time to time as occasion may require at the Seat of the League or at such other place as may be decided upon.

The Assembly may deal at its meetings with any matter within the sphere of action of the League or affecting the peace of the world.

At meetings of the Assembly each Member of the League shall have one vote, and may have not more than three Representatives.

ARTICLE 4.

The Council shall consist of Representatives of the Principal Allied and Associated Powers, together with Representatives of four other Members of the League. These four Members of the League shall be selected by the Assembly from time to time in its discretion. Until the appointment of the Representatives of the four Members of the League first selected by the Assembly, Representatives of Belgium, Brazil, Spain and Greece shall be members of the Council.

With the approval of the majority of the Assembly, the Council may name additional Members of the League whose Representatives shall always be members of the Council; the Council with like approval may increase the

number of Members of the League to be selected by the Assembly for representation on the Council.

The Council shall meet from time to time as occasion may require, and at least once a year, at the Seat of the League, or at such other place as may be decided upon.

The Council may deal at its meetings with any matter within the sphere of action of the League or affecting the peace of the world.

Any Member of the League not represented on the Council shall be invited to send a Representative to sit as a member at any meeting of the Council during the consideration of matters specially affecting the interests of that Member of the League.

At meetings of the Council, each Member of the League represented on the Council shall have one vote, and may have not more than one Representative.

ARTICLE 5

Except where otherwise expressly provided in this Covenant or by the terms of the present Treaty, decisions at any meeting of the Assembly or of the Council shall require the agreement of all the Members of the League represented at the meeting.

All matters of procedure at meetings of the Assembly or of the Council, including the appointment of Committees to investigate particular matters, shall be regulated by the Assembly or by the Council and may be decided by a majority of the Members of the League represented at the meeting.

The first meeting of the Assembly and the first meeting of the Council shall be summoned by the President of the United States of America.

ARTICLE 6.

The permanent Secretariat shall be established at the Seat of the League. The Secretariat shall comprise a Secretary General and such secretaries and staff as may be required.

The first Secretary General shall be the person named in the Annex; thereafter the Secretary General shall be appointed by the Council with the approval of the majority of the Assembly.

The secretaries and staff of the Secretariat shall be appointed by the Secretary General with the approval of the Council.

The Secretary General shall act in that capacity at all meetings of the Assembly and of the Council.

The expenses of the Secretariat shall be borne by the Members of the League in accordance with the apportionment of the expenses of the International Bureau of the Universal Postal Union.

ARTICLE 7.

The Seat of the League is established at Geneva.

The Council may at any time decide that the Seat of the League shall be established elsewhere.

All positions under or in connection with the League, including the Secretariat, shall be open equally to men and women.

Representatives of the Members of the League and officials of the League when engaged on the business of the League shall enjoy diplomatic privileges and immunities.

The buildings and other property occupied by the League or its officials or by Representatives attending its meetings shall be inviolable.

ARTICLE 8.

The Members of the League recognise that the maintenance of peace requires the reduction of national armaments to the lowest point consistent with national safety and the enforcement by common action of international obligations.

The Council, taking account of the geographical situation and circumstances of each State, shall formulate plans for such reduction for the consideration and action of the several Governments.

Such plans shall be subject to reconsideration and revision at least every ten years.

After these plans shall have been adopted by the several Governments, the limits of armaments therein fixed shall not be exceeded without the concurrence of the Council.

The Members of the League agree that the manufacture by private enterprise of munitions and implements of war is open to grave objections. The Council shall advise how the evil effects attendant upon such manufacture can be prevented, due regard being had to the necessities of those Members of the League which are not able to manufacture the munitions and implements of war necessary for their safety.

The Members of the League undertake to interchange full and frank information as to the scale of their armaments, their military, naval and air programmes and the condition of such of their industries as are adaptable to war-like purposes.

ARTICLE 9.

A permanent Commission shall be constituted to advise the Council on the execution of the provisions of Articles 1 and 8 and on military, naval and air questions generally.

ARTICLE 10.

The Members of the League undertake to respect and preserve as against external aggression the territorial integrity and existing political independence of all Members of the League. In case of any such aggression or in case of any threat or danger of such aggression the Council shall advise upon the means by which this obligation shall be fulfilled.

ARTICLE 11.

Any war or threat of war, whether immediately affecting any of the Members of the League or not, is hereby declared a matter of concern

to the whole League, and the League shall take any action that may be deemed wise and effectual to safeguard the peace of nations. In case any such emergency should arise the Secretary General shall on the request of any Member of the League forthwith summon a meeting of the Council.

It is also declared to be the friendly right of each Member of the League to bring to the attention of the Assembly or of the Council any circumstance whatever affecting international relations which threatens to disturb international peace or the good understanding between nations upon which peace depends.

ARTICLE 12.

The Members of the League agree that if there should arise between them any dispute likely to lead to a rupture, they will submit the matter either to arbitration or to inquiry by the Council, and they agree in no case to resort to war until three months after the award by the arbitrators or the report by the Council.

In any case under this Article the award of the arbitrators shall be made within a reasonable time, and the report of the Council shall be made within six months after the submission of the dispute.

ARTICLE 13.

The Members of the League agree that whenever any dispute shall arise between them which they recognise to be suitable for submission to arbitration and which cannot be satisfactorily settled by diplomacy, they will submit the whole subject-matter to arbitration.

Disputes as to the interpretation of a treaty, as to any question of international law, as to the existence of any fact which if established would constitute a breach of any international obligation, or as to the extent and nature of the reparation to be made for any such breach, are declared to be among those which are generally suitable for submission to arbitration.

For the consideration of any such dispute the court of arbitration to which the case is referred shall be the Court agreed on by the parties to the dispute or stipulated in any convention existing between them.

The members of the League agree that they will carry out in full good faith any award that may be rendered, and that they will not resort to war against a Member of the League which complies therewith. In the event of any failure to carry out such an award, the Council shall propose what steps should be taken to give effect thereto.

ARTICLE 14.

The Council shall formulate and submit to the Members of the League for adoption plans for the establishment of a Permanent Court of International Justice. The Court shall be competent to hear and determine any dispute of an international character which the parties thereto submit to it. The Court may also give an advisory opinion upon any dispute or question referred to it by the Council or by the Assembly.

ARTICLE 15.

If there should arise between Members of the League any dispute likely to lead to a rupture, which is not submitted to arbitration in accordance with Article 13, the Members of the League agree that they will submit the matter to the Council. Any party to the dispute may effect such submission by giving notice of the existence of the dispute to the Secretary General, who will make all necessary arrangements for a full investigation and consideration thereof.

For this purpose the parties to the dispute will communicate to the Secretary General, as promptly as possible, statements of their case with all the relevant facts and papers, and the Council may forthwith direct the publication thereof.

The Council shall endeavour to effect a settlement of the dispute, and if such efforts are successful, a statement shall be made public giving such facts and explanations regarding the dispute and the terms of settlement thereof as the Council may deem appropriate.

If the dispute is not thus settled, the Council either unanimously or by a majority vote shall make and publish a report containing a statement of the facts of the dispute and the recommendations which are deemed just and proper in regard thereto.

Any Member of the League represented on the Council may make public a statement of the facts of the dispute and of its conclusions regarding the same.

If a report by the Council is unanimously agreed to by the members thereof other than the Representatives of one or more of the parties to the dispute, the Members of the League agree that they will not go to war with any party to the dispute which complies with the recommendations of the report.

If the Council fails to reach a report which is unanimously agreed to by the members thereof, other than the Representatives of one or more of the parties to the dispute, the Members of the League reserve to themselves the right to take such action as they shall consider necessary for the maintenance of right and justice.

If the dispute between the parties is claimed by one of them, and is found by the Council, to arise out of a matter which by international law is solely within the domestic jurisdiction of that party, the Council shall so report, and shall make no recommendation as to its settlement.

The Council may in any case under this Article refer the dispute to the Assembly. The dispute shall be so referred at the request of either party to the dispute, provided that such request be made within fourteen days after the submission of the dispute to the Council.

In any case referred to the Assembly, all the provisions of this Article and of Article 12 relating to the action and powers of the Council shall apply to the action and powers of the Assembly, provided that a report made by the Assembly, if concurred in by the Representatives of those Members of the League represented on the Council and of a majority of the other Mem-

bers of the League, exclusive in each case of the Representatives of the parties to the dispute, shall have the same force as a report by the Council concurred in by all the members thereof other than the Representatives of one or more of the parties to the dispute.

ARTICLE 16.

Should any Member of the League resort to war in disregard of its covenants under Articles 12, 13 or 15, it shall *ipso facto* be deemed to have committed an act of war against all other Members of the League, which hereby undertake immediately to subject it to the severance of all trade or financial relations, the prohibition of all intercourse between their nationals and the nationals of the covenant-breaking State, and the prevention of all financial, commercial or personal intercourse between the nationals of the covenant-breaking State and the nationals of any other State, whether a Member of the League or not.

It shall be the duty of the Council in such case to recommend to the several Governments concerned what effective military, naval or air force the Members of the League shall severally contribute to the armed forces to be used to protect the covenant of the League.

The Members of the League agree, further, that they will mutually support one another in the financial and economic measures which are taken under this Article, in order to minimise the loss and inconvenience resulting from the above measures, and that they will mutually support one another in resisting any special measures aimed at one of their number by the covenant-breaking State, and that they will take the necessary steps to afford passage through their territory to the forces of any of the Members of the League which are co-operating to protect the covenants of the League.

Any member of the League which has violated any covenant of the League may be declared to be no longer a Member of the League by a vote of the Council concurred in by the Representatives of all the other Members of the League represented thereon.

ARTICLE 17.

In the event of a dispute between a Member of the League and a State which is not a Member of the League, or between States not Members of the League, the State or States not Members of the League shall be invited to accept the obligations of membership in the League for the purposes of such dispute, upon such conditions as the Council may deem just. If such invitation is accepted the provisions of Articles 12 to 16 inclusive shall be applied with such modifications as may be deemed necessary by the Council.

Upon such invitation being given the Council shall immediately institute an inquiry into the circumstances of the dispute and recommend such action as may seem best and most effectual in the circumstances.

If a State so invited shall refuse to accept the obligations of membership in the League for the purposes of such dispute, and shall resort to war

against a Member of the League, the provisions of Article 16 shall be applicable as against the State taking such action.

If both parties to the dispute when so invited refuse to accept the obligations of membership in the League for the purposes of such dispute, the Council may take such measures and make such recommendations as will prevent hostilities and will result in the settlement of the dispute.

ARTICLE 18.

Every treaty or international engagement entered into hereafter by any Member of the League shall be forthwith registered with the Secretariat and shall as soon as possible be published by it. No such treaty or international engagement shall be binding until so registered.

ARTICLE 19.

The Assembly may from time to time advise the reconsideration by Members of the League of treaties which have become inapplicable and the consideration of international conditions whose continuance might endanger the peace of the world.

ARTICLE 20.

The Members of the League severally agree that this Covenant is accepted as abrogating all obligations or understandings *inter se* which are inconsistent with the terms thereof, and solemnly undertake that they will not hereafter enter into any engagements inconsistent with the terms thereof.

In case any Member of the League shall, before becoming a Member of the League, have undertaken any obligations inconsistent with the terms of this Covenant, it shall be the duty of such Member to take immediate steps to procure its release from such obligations.

ARTICLE 21.

Nothing in this Covenant shall be deemed to affect the validity of international engagements, such as treaties of arbitration or regional understandings like the Monroe doctrine, for securing the maintenance of peace.

ARTICLE 22.

To those colonies and territories which as a consequence of the late war have ceased to be under the sovereignty of the States which formerly governed them and which are inhabited by peoples not yet able to stand by themselves under the strenuous conditions of the modern world, there should be applied the principle that the well-being and development of such peoples form a sacred trust of civilisation and that securities for the performance of this trust should be embodied in this Covenant.

The best method of giving practical effect to this principle is that the tutelage of such peoples should be entrusted to advanced nations who by

reason of their resources, their experience or their geographical position can best undertake this responsibility, and who are willing to accept it, and that this tutelage should be exercised by them as Mandatories on behalf of the League.

The character of the mandate must differ according to the stage of the development of the people, the geographical situation of the territory, its economic conditions and other similar circumstances.

Certain communities formerly belonging to the Turkish Empire have reached a stage of development where their existence as independent nations can be provisionally recognised subject to the rendering of administrative advice and assistance by a Mandatory until such time as they are able to stand alone. The wishes of these communities must be a principal consideration in the selection of the Mandatory.

Other peoples, especially those of Central Africa, are at such a stage that the Mandatory must be responsible for the administration of the territory under conditions which will guarantee freedom of conscience and religion, subject only to the maintenance of public order and morals, the prohibition of abuses such as the slave trade, the arms traffic and the liquor traffic, and the prevention of the establishment of fortifications or military and naval bases and of military training of the natives for other than police purposes and the defence of territory, and will also secure equal opportunities for the trade and commerce of other Members of the League.

There are territories, such as South-West Africa and certain of the South Pacific Islands, which, owing to the sparseness of their population, or their small size, or their remoteness from the centres of civilisation, or their geographical contiguity to the territory of the Mandatory, and other circumstances, can be best administered under the laws of the Mandatory as integral portions of its territory, subject to the safeguards above mentioned in the interests of the indigenous population.

In every case of mandate, the Mandatory shall render to the Council an annual report in reference to the territory committed to its charge.

The degree of authority, control, or administration to be exercised by the Mandatory shall, if not previously agreed upon by the Members of the League, be explicitly defined in each case by the Council.

A permanent Commission shall be constituted to receive and examine the annual reports of the Mandatories and to advise the Council on all matters relating to the observance of the mandates.

ARTICLE 23.

Subject to and in accordance with the provisions of international conventions existing or hereafter to be agreed upon, the Members of the League:

- (a) will endeavour to secure and maintain fair and humane conditions of labour for men, women and children, both in their own countries and in all countries to which their commercial and industrial relations extend, and for that purpose will establish and maintain the necessary international organisation;

- (b) undertake to secure just treatment of the native inhabitants of territories under their control;
- (c) will entrust the League with the general supervision over the execution of agreements with regard to the traffic in women and children, and the traffic in opium and other dangerous drugs;
- (d) will entrust the League with the general supervision of the trade in arms and ammunition with the countries in which the control of this traffic is necessary in the common interest;
- (e) will make provision to secure and maintain freedom of communications and of transit and equitable treatment for the commerce of all Members of the League. In this connection, the special necessities of the regions devastated during the war of 1914-1918 shall be borne in mind;
- (f) will endeavour to take steps in matters of international concern for the prevention and control of disease.

ARTICLE 24.

There shall be placed under the direction of the League all international bureaux already established by general treaties if the parties to such treaties consent. All such international bureaux and all commissions for the regulation of matters of international interest hereafter constituted shall be placed under the direction of the League.

In all matters of international interest which are regulated by general conventions but which are not placed under the control of international bureaux or commissions, the Secretariat of the League shall, subject to the consent of the Council and if desired by the parties, collect and distribute all relevant information and shall render any other assistance which may be necessary or desirable.

The Council may include as part of the expenses of the Secretariat the expenses of any bureau or commission which is placed under the direction of the League.

ARTICLE 25.

The Members of the League agree to encourage and promote the establishment and co-operation of duly authorised voluntary national Red Cross organizations having as purposes the improvement of health, the prevention of disease and the mitigation of suffering throughout the world.

ARTICLE 26.

Amendments to this Covenant will take effect when ratified by the Members of the League whose Representatives compose the Council and by a majority of the Members of the League whose Representatives compose the Assembly.

No such amendment shall bind any Member of the League which signifies its dissent therefrom, but in that case it shall cease to be a Member of the League.

ANNEX.

I. ORIGINAL MEMBERS OF THE LEAGUE OF NATIONS SIGNATORIES OF THE TREATY OF PEACE.

UNITED STATES OF AMERICA.	HAITI.
BELGIUM.	HEDJAZ.
BOLIVIA.	HONDURAS.
BRAZIL.	ITALY.
BRITISH EMPIRE.	JAPAN.
CANADA.	LIBERIA.
AUSTRALIA.	NICARAGUA.
SOUTH AFRICA.	PANAMA.
NEW ZEALAND.	PERU.
INDIA.	POLAND.
CHINA.	PORTUGAL.
CUBA.	ROUMANIA.
ECUADOR.	SERB-CROAT-SLOVENE STATE.
FRANCE.	SIAM.
GREECE.	CZECHO-SLOVAKIA.
GUATEMALA.	URUGUAY.

STATES INVITED TO ACCEDE TO THE COVENANT.

ARGENTINE REPUBLIC.	PERSIA.
CHILE.	SALVADOR.
COLOMBIA.	SPAIN.
DENMARK.	SWEDEN.
NETHERLANDS.	SWITZERLAND.
NORWAY.	VENEZUELA.
PARAGUAY.	

II. FIRST SECRETARY GENERAL OF THE LEAGUE OF NATIONS.

The Honourable Sir James Eric Drummond, K. C. M. G., C. B.

PART II.

BOUNDARIES OF GERMANY.

ARTICLE 27.

The boundaries of Germany will be determined as follows:

I. *With Belgium:*

From the point common to the three frontiers of Belgium, Holland and Germany and in a southerly direction:

the north-eastern boundary of the former territory of *neutral Moresnet*,

then the eastern boundary of the *Kreis* of Eupen, then the frontier between Belgium and the *Kreis* of Montjoie, then the north-eastern and eastern boundary of the *Kreis* of Malmédy to its junction with the frontier of Luxemburg.

2. *With Luxemburg:*

The frontier of August 3, 1914, to its junction with the frontier of France of the 18th July, 1870.

3. *With France:*

The frontier of July 18, 1870, from Luxemburg to Switzerland with the reservations made in Article 48 of Section IV (Saar Basin) of Part III.

4. *With Switzerland:*

The present frontier.

5. *With Austria:*

The frontier of August 3, 1914, from Switzerland to Czecho-Slovakia as hereinafter defined.

6. *With Czecho-Slovakia:*

The frontier of August 3, 1914, between Germany and Austria from its junction with the old administrative boundary separating Bohemia and the province of Upper Austria to the point north of the salient of the old province of Austrian Silesia situated at about 8 kilometres east of Neustadt.

7. *With Poland:*

From the point defined above to a point to be fixed on the ground about 2 kilometres east of Lorzendorf:

the frontier as it will be fixed in accordance with Article 88 of the present Treaty;

thence in a northerly direction to the point where the administrative boundary of Posnania crosses the river Bartsch:

a line to be fixed on the ground leaving the following places in Poland: Skorischau, Reichthal, Trembatschau, Kunzendorf, Schleise, Gross Kosel, Schreibersdorf, Rippin, Fürstlich-Niefken, Pawelau, Tscheschen, Konradan, Johannisdorf, Modzenowe, Bogdaj, and in Germany: Lorzendorf, Kaulwitz, Glausche, Dalbersdorf, Reesewitz, Stradam, Gross, Wartenberg, Kraschen, Neu Mittlewalde, Domaslawitz, Wedelsdorf, Tscheschen Hammer;

thence the administrative boundary of Posnania north-westwards to the point where it cuts the Rawitsch-Herrnstadt railway;

thence to the point where the administrative boundary of Posnania cuts the Reisen-Tschirnau road:

a line to be fixed on the ground passing west of Triebusch and Gabel and east of Saborwitz;

thence the administrative boundary of Posnania to its junction with the eastern administrative boundary of the *Kreis* of Fraustadt;

thence in a north-westerly direction to a point to be chosen on the road between the villages of Unruhstadt and Kopnitz:

a line to be fixed on the ground passing west of Geyersdorf, Brenno, Fehlen, Altkloster, Klebel, and east of Ulbersdorf, Buchwald, Ilgen, Weine, Lupitze, Schwenten;

thence in a northerly direction to the northernmost point of Lake Chlop:
a line to be fixed on the ground following the median line of the lakes;
the town and the station of Bentschen however (including the junction of the lines Schwiebus-Bentschen and Züllichau-Bentschen) remaining in Polish territory;

thence in a north-easterly direction to the point of junction of the boundaries of the *Kreise* of Schwerin, Birnbaum and Meseritz:

a line to be fixed on the ground passing east of Betsche;

thence in a northerly direction the boundary separating the *Kreise* of Schwerin and Birnbaum, then in an easterly direction the northern boundary of Posnania to the point where it cuts the river Netze;

thence upstream to its confluence with the Küddow:

the course of the Netze;

thence upstream to a point to be chosen about 6 kilometres south-east of Schneidemühl:

the course of the Küddow;

thence north-eastwards to the most southern point of the re-entrant of the northern boundary of Posnania about 5 kilometres west of Stahren:

a line to be fixed on the ground leaving the Schneidemühl-Konitz railway in this area entirely in German territory;

thence the boundary of Posnania north-eastwards to the point of the salient it makes about 15 kilometres east of Flatow;

thence north-eastwards to the point where the river Kamionka meets the southern boundary of the *Kreis* of Konitz about 3 kilometres north-east of Grunau:

a line to be fixed on the ground leaving the following places to Poland: Jasdrowo, Gr. Lutau, Kl. Lutau, Wittkau, and to Germany: Gr. Butzig, Cziskowo, Battrow, Böck, Grunau;

thence in a northerly direction the boundary between the *Kreise* of Konitz and Schlochau to the point where this boundary cuts the river Brahe;

thence to a point on the boundary of Pomerania 15 kilometres east of Rummelsburg:

a line to be fixed on the ground leaving the following places in Poland: Konarzin, Kelpin, Adl. Briesen, and in Germany: Sampohl, Neuguth, Steinfort, Gr. Peterkau;

then the boundary of Pomerania in an easterly direction to its junction with the boundary between the *Kreise* of Konitz and Schlochau;

thence northwards the boundary between Pomerania and West Prussia to the point on the river Rheda about 3 kilometres north-west of Gohra where that river is joined by a tributary from the north-west;

thence to a point to be selected in the bend of the Piasnitz river about 1½ kilometres north-west of Warschkau:

a line to be fixed on the ground;

thence this river downstream, then the median line of Lake Zarnowitz, then the old boundary of West Prussia to the Baltic Sea.

8. *With Denmark:*

The frontier as it will be fixed in accordance with Articles 109 to 111 of Part III, Section XII (Schleswig).

ARTICLE 28.

The boundaries of East Prussia, with the reservations made in Section IX (East Prussia) of Part III, will be determined as follows:

from a point on the coast of the Baltic Sea about $1\frac{1}{2}$ kilometres north of Pröbbernau church in a direction of about 159° East from true North:

a line to be fixed on the ground for about 2 kilometres;

thence in a straight line to the light at the bend of the Elbing Channel in approximately latitude $54^{\circ} 19\frac{1}{2}'$ North, longitude $19^{\circ} 26'$ East of Greenwich;

thence to the easternmost mouth of the Nogat River at a bearing of approximately 209° East from true North;

thence up the course of the Nogat River to the point where the latter leaves the Vistula (Weichsel);

thence up the principal channel of navigation of the Vistula, then the southern boundary of the *Kreis* of Marienwerder, then that of the *Kreis* of Rosenberg eastwards to the point where it meets the old boundary of East Prussia.

thence the old boundary between East and West Prussia, then the boundary between the *Kreise* of Osterode and Neidenburg, then the course of the river Skottau downstream, then the course of the Neide upstream to a point situated about 5 kilometres west of Bialutten being the nearest point to the old frontier of Russia;

thence in an easterly direction to a point immediately south of the intersection of the road Neidenburg-Mlava with the old frontier of Russia:

a line to be fixed on the ground passing north of Bialutten;

thence the old frontier of Russia to a point east of Schmallingken, then the principal channel of navigation of the Niemen (Memel) downstream, then the Skierwieth arm of the delta to the Kurisches Haff;

thence a straight line to the point where the eastern shore of the Kurische Nehrung meets the administrative boundary about 4 kilometres south-west of Nidden;

thence this administrative boundary to the western shore of the Kurische Nehrung.

ARTICLE 29.

The boundaries as described above are drawn in red on a one-in-a-million map which is annexed to the present Treaty (Map No. 1.)

In the case of any discrepancies between the text of the Treaty and this map or any other map which may be annexed, the text will be final.

ARTICLE 30.

In the case of boundaries which are defined by a waterway, the terms "course" and "channel" used in the present Treaty signify: in the case of

non-navigable rivers, the median line of the waterway or of its principal arm, and, in the case of navigable rivers, the median line of the principal channel of navigation. It will rest with the Boundary Commissions provided by the present Treaty to specify in each case whether the frontier line shall follow any changes of the course or channel which may take place or whether it shall be definitely fixed by the position of the course or channel at the time when the present Treaty comes into force.

PART III.

POLITICAL CLAUSES FOR EUROPE.

SECTION I.

BELGIUM.

ARTICLE 31.

Germany, recognizing that the Treaties of April 19, 1839, which established the status of Belgium before the war no longer conform to the requirements of the situation, consents to the abrogation of the said Treaties and undertakes immediately to recognize and to observe whatever conventions may be entered into by the Principal Allied and Associated Powers, or by any of them, in concert with the Governments of Belgium and of the Netherlands, to replace the said Treaties of 1839. If her formal adhesion should be required to such conventions or to any of their stipulations, Germany undertakes immediately to give it.

ARTICLE 32.

Germany recognizes the full sovereignty of Belgium over the whole of the contested territory of Moresnet (called *Moresnet neutre*).

ARTICLE 33.

Germany renounces in favour of Belgium all rights and title over the territory of Prussian Moresnet situated on the west of the road from Liège to Aix-la-Chapelle; the road will belong to Belgium where it bounds this territory.

ARTICLE 34.

Germany renounces in favour of Belgium all rights and title over the territory comprising the whole of the *Kreise* of Eupen and of Malmédy.

During the six months after the coming into force of this Treaty, registers will be opened by the Belgian authority at Eupen and Malmédy in which the inhabitants of the above territory will be entitled to record in writing a desire to see the whole or part of it remain under German sovereignty.

The results of this public expression of opinion will be communicated by the Belgian Government to the League of Nations, and Belgium undertakes to accept the decision of the League.

ARTICLE 35.

A Commission of seven persons, five of whom will be appointed by the Principal Allied and Associated Powers, one by Germany and one by Belgium, will be set up fifteen days after the coming into force of the present Treaty to settle on the spot the new frontier line between Belgium and Germany, taking into account the economic factors and the means of communication.

Decisions will be taken by a majority and will be binding on the parties concerned.

ARTICLE 36.

When the transfer of the sovereignty over the territories referred to above has become definite, German nationals habitually resident in the territories will definitively acquire Belgian nationality *ipso facto*, and will lose their German nationality.

Nevertheless, German nationals who became resident in the territories after August 1, 1914, shall not obtain Belgian nationality without a permit from the Belgian Government.

ARTICLE 37.

Within the two years following the definitive transfer of the sovereignty over the territories assigned to Belgium under the present Treaty, German nationals over 18 years of age habitually resident in those territories will be entitled to opt for German nationality.

Option by a husband will cover his wife, and option by parents will cover their children under 18 years of age.

Persons who have exercised the above right to opt must within the ensuing twelve months transfer their place of residence to Germany.

They will be entitled to retain their immovable property in the territories acquired by Belgium. They may carry with them their movable property of every description. No export or import duties may be imposed upon them in connection with the removal of such property.

ARTICLE 38.

The German Government will hand over without delay to the Belgian Government the archives, registers, plans, title deeds and documents of every kind concerning the civil, military, financial, judicial or other administrations in the territory transferred to Belgian sovereignty.

The German Government will likewise restore to the Belgian Government the archives and documents of every kind carried off during the war by the

German authorities from the Belgian public administrations, in particular from the Ministry of Foreign Affairs at Brussels.

ARTICLE 39.

The proportion and nature of the financial liabilities of Germany and of Prussia which Belgium will have to bear on account of the territories ceded to her shall be fixed in conformity with Articles 254 and 256 of Part IX (Financial Clauses) of the present Treaty.

SECTION II.

LUXEMBURG.

ARTICLE 40.

With regard to the Grand Duchy of Luxembourg, Germany renounces the benefit of all the provisions inserted in her favour in the Treaties of February 8, 1842, April 2, 1847, October 20-25, 1865, August 18, 1866, February 21 and May 11, 1867, May 10, 1871, June 11, 1872, and November 11, 1902, and in all Conventions consequent upon such Treaties.

Germany recognizes that the Grand Duchy of Luxembourg ceased to form part of the German Zollverein as from January 1, 1919, renounces all rights to the exploitation of the railways, adheres to the termination of the régime of neutrality of the Grand Duchy, and accepts in advance all international arrangements which may be concluded by the Allied and Associated Powers relating to the Grand Duchy.

ARTICLE 41.

Germany undertakes to grant to the Grand Duchy of Luxembourg, when a demand to that effect is made to her by the Principal Allied and Associated Powers, the rights and advantages stipulated in favour of such Powers or their nationals in the present Treaty with regard to economic questions, to questions relative to transport and to aerial navigation.

SECTION III.

LEFT BANK OF THE RHINE.

ARTICLE 42.

Germany is forbidden to maintain or construct any fortifications either on the left bank of the Rhine or on the right bank to the west of a line drawn 50 kilometres to the East of the Rhine.

ARTICLE 43.

In the area defined above the maintenance and the assembly of armed forces, either permanently or temporarily, and military manœuvres of any

kind, as well as the upkeep of all permanent works for mobilization, are in the same way forbidden.

ARTICLE 44.

In case Germany violates in any manner whatever the provisions of Articles 42 and 43, she shall be regarded as committing a hostile act against the Powers signatory of the present Treaty and as calculated to disturb the peace of the world.

SECTION IV.

SAAR BASIN.

ARTICLE 45.

As compensation for the destruction of the coal-mines in the north of France and as part payment towards the total reparation due from Germany for the damage resulting from the war, Germany cedes to France in full and absolute possession, with exclusive rights of exploitation, unencumbered and free from all debts and charges of any kind, the coal-mines situated in the Saar Basin as defined in Article 48.

ARTICLE 46.

In order to assure the rights and welfare of the population and to guarantee to France complete freedom in working the mines, Germany agrees to the provisions of Chapters I and II of the Annex hereto.

ARTICLE 47.

In order to make in due time permanent provision for the government of the Saar Basin in accordance with the wishes of the populations, France and Germany agree to the provisions of Chapter III of the Annex hereto.

ARTICLE 48.

The boundaries of the territory of the Saar Basin, as dealt with in the present stipulations, will be fixed as follows:

On the south and south-west: by the frontier of France as fixed by the present Treaty.

On the northwest and north: by a line following the northern administrative boundary of the *Kreis* of Merzig from the point where it leaves the French frontier to the point where it meets the administrative boundary separating the commune of Saarhölzbach from the commune of Britten; following this communal boundary southwards and reaching the administrative boundary of the canton of Merzig so as to include in the territory of the Saar Basin the canton of Mettlach, with the exception of the commune of Britten; following successively the northern administrative boundaries of the cantons of Merzig and Haustadt, which are incorporated in the afore-

said Saar Basin, then successively the administrative boundaries separating the *Kreise* of Sarrelouis, Ottweiler and Saint-Wendel from the *Kreise* of Merzig, Trèves (Trier) and the Principality of Birkenfeld as far as a point situated about 500 metres north of the village of Furschweiler (viz., the highest point of the Metzelberg).

On the north-east and east: from the last point defined above to a point about $3\frac{1}{2}$ kilometres east-north-east of Saint-Wendel:

a line to be fixed on the ground passing east of Furschweiler, west of Roschberg, east of points 418, 329 (south of Roschberg), west of Leitersweiler, north-east of point 464, and following the line of the crest southwards to its junction with the administrative boundary of the *Kreis* of Kusel;

thence in a southerly direction the boundary of the *Kreis* of Kusel, then the boundary of the *Kreis* of Homburg towards the south-south-east to a point situated about 1000 metres west of Dunzweiler;

thence to a point about 1 kilometre south of Hornbach:

a line to be fixed on the ground passing through point 424 (about 1000 metres south-east of Dunzweiler), point 363 (Fuchs-Berg), point 322 (south-west of Waldmohr), then east of Jägersburg and Erbach, then encircling Homburg, passing through the points 361 (about $2\frac{1}{2}$ kilometres north-east by east of that town), 342 (about 2 kilometres south-east of that town), 347 (Schreiners-Berg), 356, 350 (about $1\frac{1}{2}$ kilometres south-east of Schwarzenbach), then passing east of Einöd, south-east of points 322 and 333, about 2 kilometres east of Webenheim, about 2 kilometres east of Mimbach, passing east of the plateau which is traversed by the road from Mimbach to Böckweiler (so as to include this road in the territory of the Saar Basin), passing immediately north of the junction of the roads from Böckweiler and Altheim situated about 2 kilometres north of Altheim, then passing south of Ringweilerhof and north of point 322, rejoining the frontier of France at the angle which it makes about 1 kilometre south of Hornbach (see Map No. 2 scale 1/100,000, annexed to the present Treaty).

A Commission composed of five members, one appointed by France, one by Germany, and three by the Council of the League of Nations, which will select nationals of other Powers, will be constituted within fifteen days from the coming into force of the present Treaty, to trace on the spot the frontier line described above.

In those parts of the preceding line which do not coincide with administrative boundaries, the Commission will endeavour to keep to the line indicated, while taking into consideration, so far as is possible, local economic interests and existing communal boundaries.

The decisions of this Commission will be taken by a majority, and will be binding on the parties concerned.

ARTICLE 49.

Germany renounces in favour of the League of Nations, in the capacity of trustee, the government of the territory defined above.

At the end of fifteen years from the coming into force of the present Treaty the inhabitants of the said territory shall be called upon to indicate the sovereignty under which they desire to be placed.

ARTICLE 50.

The stipulations under which the cession of the mines in the Saar Basin shall be carried out, together with the measures intended to guarantee the rights and the well-being of the inhabitants, and the government of the territory, as well as the conditions in accordance with which the plebiscite hereinbefore provided for is to be made, are laid down in the Annex hereto. This Annex shall be considered as an integral part of the present Treaty, and Germany declares her adherence to it.

ANNEX.

In accordance with the provisions of Articles 45 to 50 of the present Treaty, the stipulations under which the cession by Germany to France of the mines of the Saar Basin will be effected, as well as the measures intended to ensure respect for the rights and well-being of the population and the government of the territory, and the conditions in which the inhabitants will be called upon to indicate the sovereignty under which they may wish to be placed, have been laid down as follows:

CHAPTER I.

• CESSION AND EXPLOITATION OF MINING PROPERTY.

1. From the date of the coming into force of the present Treaty, all the deposits of coal situated within the Saar Basin as defined in Article 48 of the said Treaty, become the complete and absolute property of the French State.

The French State will have the right of working or not working the said mines, or of transferring to a third party the right of working them, without having to obtain any previous authorisation or to fulfil any formalities.

The French State may always require that the German mining laws and regulations referred to below shall be applied in order to ensure the determination of its rights.

2. The right of ownership of the French State will apply not only to the deposits which are free and for which concessions have not yet been granted, but also to the deposits for which concessions have already been granted, whoever may be the present proprietors, irrespective of whether they belong to the Prussian State, to the Bavarian State, to other States or bodies, to companies or to individuals, whether they have been worked or not, or whether a right of exploitation distinct from the right of the owners of the surface of the soil has or has not been recognized.

As far as concerns the mines which are being worked, the transfer of the

ownership to the French State will apply to all the accessories and subsidiaries of the said mines, in particular to their plant and equipment both on and below the surface, to their extracting machinery, their plants for transforming coal into electric power, coke and by-products, their workshops, means of communication, electric lines, plant for catching and distributing water, land, buildings such as offices, managers', employees' and workmen's dwellings, schools, hospitals and dispensaries, their stocks and supplies of every description, their archives and plans, and in general everything which those who own or exploit the mines possess or enjoy for the purpose of exploiting the mines and their accessories and subsidiaries.

The transfer will apply also to the debts owing for products delivered before the entry into possession by the French State, and after the signature of the present Treaty, and to deposits of money made by customers, whose rights will be guaranteed by the French State.

4. The French State will acquire the property free and clear of all debts and charges. Nevertheless, the rights acquired, or in course of being acquired, by the employees of the mines and their accessories and subsidiaries at the date of the coming into force of the present Treaty, in connection with pensions for old age or disability, will not be affected. In return, Germany must pay over to the French State a sum representing the actuarial amounts to which the said employees are entitled.

5. The value of the property thus ceded to the French State will be determined by the Reparation Commission referred to in Article 233 of Part VIII (Reparation) of the present Treaty.

This value shall be credited to Germany in part payment of the amount due for reparation.

It will be for Germany to indemnify the proprietors or parties concerned, whoever they may be.

6. No tariff shall be established on the German railways and canals which may directly or indirectly discriminate to the prejudice of the transport of the personnel or products of the mines and their accessories or subsidiaries, or of the material necessary to their exploitation. Such transport shall enjoy all the rights and privileges which any international railway conventions may guarantee to similar products of French origin.

7. The equipment and personnel necessary to ensure the despatch and transport of the products of the mines and their accessories and subsidiaries, as well as the carriage of workmen and employees, will be provided by the local railway administration of the Basin.

8. No obstacle shall be placed in the way of such improvements of railways or waterways as the French State may judge necessary to assure the despatch and the transport of the products of the mines and their accessories and subsidiaries, such as double trackage, enlargement of stations, and construction of yards and appurtenances. The distribution of expenses will, in the event of disagreement, be submitted to arbitration.

The French State may also establish any new means of communication, such as roads, electric lines and telephone connections which it may consider necessary for the exploitation of the mines.

It may exploit freely and without any restrictions the means of communication of which it may become the owner, particularly those connecting the mines and their accessories and subsidiaries with the means of communication situated in French territory.

9. The French State shall always be entitled to demand the application of the German mining laws and regulations in force on November 11, 1918, excepting provisions adopted exclusively in view of the state of war, with a view to the acquisition of such land as it may judge necessary for the exploitation of the mines and their accessories and subsidiaries.

The payment for damage caused to immovable property by the working of the said mines and their accessories and subsidiaries shall be made in accordance with the German mining laws and regulations above referred to.

10. Every person whom the French State may substitute for itself as regards the whole or part of its rights to the exploitation of the mines and their accessories and subsidiaries shall enjoy the benefit of the privileges provided in this Annex.

11. The mines and other immovable property which become the property of the French State may never be made the subject of measures of forfeiture, forced sale, expropriation or requisition, nor of any other measure affecting the right of property.

The personnel and the plant connected with the exploitation of these mines or their accessories and subsidiaries, as well as the product extracted from the mines or manufactured in their accessories and subsidiaries, may not at any time be made the subject of any measures of requisition.

The exploitation of the mines and their accessories and subsidiaries, which become the property of the French State, will continue, subject to the provisions of paragraph 23 below, to be subject to the régime established by the German laws and regulations in force on November 11, 1918, excepting provisions adopted exclusively in view of the state of war.

The rights of the workmen shall similarly be maintained, subject to the provisions of the said paragraph 23, as established on November 11, 1918, by the German laws and regulations above referred to.

No impediment shall be placed in the way of the introduction or employment in the mines and their accessories and subsidiaries of workmen from without the Basin.

The employees and workmen of French nationality shall have the right to belong to French labour unions.

13. The amount contributed by the mines and their accessories and subsidiaries, either to the local budget of the territory of the Saar Basin or to the communal funds, shall be fixed with due regard to the ratio of the value of the mines to the total taxable wealth of the Basin.

14. The French State shall always have the right of establishing and maintaining, as incidental to the mines, primary or technical schools for its employees and their children, and of causing instruction therein to be given in the French language, in accordance with such curriculum and by such teachers as it may select.

It shall also have the right to establish and maintain hospitals, dispensaries, workmen's houses and gardens and other charitable and social institutions.

15. The French State shall enjoy complete liberty with respect to the distribution, dispatch and sale prices of the products of the mines and their accessories and subsidiaries.

Nevertheless, whatever may be the total product of the mines, the French Government undertakes that the requirements of local consumption for industrial and domestic purposes shall always be satisfied in the proportion existing in 1913 between the amount consumed locally and the total output of the Saar Basin.

CHAPTER II.

GOVERNMENT OF THE TERRITORY OF THE SAAR BASIN.

16. The Government of the territory of the Saar Basin shall be entrusted to a Commission representing the League of Nations. This Commission shall sit in the territory of the Saar Basin.

17. The Governing Commission provided for by paragraph 16 shall consist of five members chosen by the Council of the League of Nations, and will include one citizen of France, one native inhabitant of the Saar Basin, not a citizen of France, and three members belonging to three countries other than France or Germany.

The members of the Governing Commission shall be appointed for one year and may be re-appointed. They can be removed by the Council of the League of Nations, which will provide for their replacement.

The members of the Governing Commission will be entitled to a salary which will be fixed by the Council of the League of Nations, and charged on the local revenues.

18. The Chairman of the Governing Commission shall be appointed for one year from among the members of the Commission by the Council of the League of Nations and may be re-appointed.

The Chairman will act as the executive of the Commission.

19. Within the territory of the Saar Basin the Governing Commission shall have all the powers of government hitherto belonging to the German Empire, Prussia, or Bavaria, including the appointment and dismissal of officials, and the creation of such administrative and representative bodies as it may deem necessary.

It shall have full powers to administer and operate the railways, canals and the different public services.

Its decisions shall be taken by a majority.

20. Germany will place at the disposal of the Governing Commission all official documents and archives under the control of Germany, of any German State, or of any local authority, which relate to the territory of the Saar Basin or to the rights of the inhabitants thereof.

21. It will be the duty of the Governing Commission to ensure, by such means and under such conditions as it may deem suitable, the protection abroad of the interests of the inhabitants of the territory of the Saar Basin.

22. The Governing Commission shall have the full right of user of all property, other than mines, belonging, either in public or in private domain, to the Government of the German Empire, or the Government of any German State, in the territory of the Saar Basin.

As regards the railways an equitable apportionment of rolling stock shall be made by a mixed Commission on which the Government of the territory of the Saar Basin and the German railways will be represented.

Persons, goods, vessels, carriages, wagons and mails coming from or going to the Saar Basin shall enjoy all the rights and privileges relating to transit and transport which are specified in the provisions of Part XII (Ports, Waterways and Railways) of the present Treaty.

23. The laws and regulations in force on November 11, 1918, in the territory of the Saar Basin (except those enacted in consequence of the state of war) shall continue to apply.

If, for general reasons or to bring these laws and regulations into accord with the provisions of the present Treaty, it is necessary to introduce modifications, these shall be decided on, and put into effect by the Governing Commission, after consultation with the elected representatives of the inhabitants in such a manner as the Commission may determine.

No modification may be made in the legal régime for the exploitation of the mines, provided for in paragraph 12, without the French State being previously consulted, unless such modification results from a general regulation respecting labour adopted by the League of Nations.

In fixing the conditions and hours of labour for men, women and children, the Governing Commission is to take into consideration the wishes expressed by the local labour organisations, as well as the principles adopted by the League of Nations.

24. Subject to the provisions of paragraph 4, no rights of the inhabitants of the Saar Basin acquired or in process of acquisition at the date of the coming into force of this Treaty, in respect of any insurance system of Germany or in respect of any pension of any kind, are affected by any of the provisions of the present Treaty.

Germany and the Government of the territory of the Saar Basin will preserve and continue all of the aforesaid rights.

25. The civil and criminal courts existing in the territory of the Saar Basin shall continue.

A civil and criminal court will be established by the Governing Commission to hear appeals from the decisions of the said courts and to decide matters for which these courts are not competent.

The Governing Commission will be responsible for settling the organisation and jurisdiction of the said court.

Justice will be rendered in the name of the Governing Commission.

26. The Governing Commission will alone have the power of levying taxes and dues in the territory of Saar Basin.

These taxes and dues will be exclusively applied to the needs of the territory.

The fiscal system existing on November 11, 1918, will be maintained as far as possible, and no new tax except customs duties may be imposed without previously consulting the elected representatives of the inhabitants.

27. The present stipulations will not affect the existing nationality of the inhabitants of the territory of the Saar Basin.

No hindrance shall be placed in the way of those who wish to acquire a different nationality, but in such case the acquisition of the new nationality will involve the loss of any other.

28. Under the control of the Governing Commission the inhabitants will retain their local assemblies, their religious liberties, their schools and their language.

The right of voting will not be exercised for any assemblies other than the local assemblies, and will belong to every inhabitant over the age of twenty years, without distinction of sex.

29. Any of the inhabitants of the Saar Basin who may desire to leave the territory will have full liberty to retain in it their immovable property or to sell it at fair prices, and to remove their movable property free of any charges.

30. There will be no military service, whether compulsory or voluntary, in the territory of the Saar Basin, and the construction of fortifications therein is forbidden.

Only a local gendarmerie for the maintenance of order may be established.

It will be the duty of the Governing Commission to provide in all cases for protection of persons and property in the Saar Basin.

31. The territory of the Saar Basin as defined by Article 48 of the present Treaty shall be subjected to the French customs régime. The receipts from the customs duties on goods intended for local consumption shall be included in the budget of the said territory after deduction of all costs of collection.

No export tax shall be imposed upon metallurgical products or coal exported from the said territory to Germany, nor upon German exports for the use of the industries of the territory of the Saar Basin.

Natural or manufactured products originating in the Basin in transit over German territory and, similarly, German products in transit over the territory of the Basin shall be free of all customs duties.

Products which both originate in and pass from the Basin into Germany shall be free of import duties for a period of five years from the date of the coming into force of the present Treaty, and during the same period articles imported from Germany into the territory of the Basin for local consumption shall likewise be free of import duties.

During these five years the French Government reserves to itself the right of limiting to the annual average of the quantities imported into Alsace-Lor-

rairie and France in the years 1911 to 1913 the quantities which may be sent into France of all articles coming from the Basin which include raw materials and semi-manufactured goods imported duty free from Germany. Such average shall be determined after reference to all available official information and statistics.

32. No prohibition or restriction shall be imposed upon the circulation of French money in the territory of the Saar Basin.

The French State shall have the right to use French money in all purchases, payments and contracts connected with the exploitation of the mines or their accessories and subsidiaries.

33. The Governing Commission shall have power to decide all questions arising from the interpretation of the preceding provisions.

France and Germany agree that any dispute involving a difference of opinion as to the interpretation of the said provisions shall in the same way be submitted to the Governing Commission, and the decision of a majority of the Commission shall be binding on both countries.

CHAPTER III.

PLEBISCITE.

34. At the termination of a period of fifteen years from the coming into force of the present Treaty, the population of the territory of the Saar Basin will be called upon to indicate their desires in the following manner:

A vote will take place by communes or districts, on the three following alternatives: (a) maintenance of the régime established by the present Treaty and by this Annex; (b) union with France; (c) union with Germany.

All persons without distinction of sex, more than twenty years old at the date of the voting, resident in the territory at the date of the signature of the present Treaty, will have the right to vote.

The other conditions, methods and the date of the voting shall be fixed by the Council of the League of Nations in such a way as to secure the freedom, secrecy and trustworthiness of the voting.

35. The League of Nations shall decide on the sovereignty under which the territory is to be placed, taking into account the wishes of the inhabitants as expressed by the voting:

(a) If, for the whole or part of the territory, the League of Nations decides in favour of the maintenance of the régime established by the present Treaty and this Annex, Germany hereby agrees to make such renunciation of her sovereignty in favour of the League of Nations as the latter shall deem necessary. It will be the duty of the League of Nations to take appropriate steps to adapt the régime definitively adopted to the permanent welfare of the territory and the general interest;

(b) If, for the whole or part of the territory, the League of Nations decides in favour of union with France, Germany hereby agrees to cede to France

in accordance with the decision of the League of Nations all rights and title over the territory specified by the League;

(c) If, for the whole or part of the territory, the League of Nations decides in favour of union with Germany, it will be the duty of the League of Nations to cause the German Government to be re-established in the government of the territory specified by the League.

36. If the League of Nations decides in favour of the union of the whole or part of the territory of the Saar Basin with Germany, France's rights of ownership in the mines situated in such part of the territory will be repurchased by Germany in their entirety at a price payable in gold. The price to be paid will be fixed by three experts, one nominated by Germany, one by France, and one, who shall be neither a Frenchman nor a German, by the Council of the League of Nations; the decision of the experts will be given by a majority.

The obligation of Germany to make such payment shall be taken into account by the Reparation Commission, and for the purpose of this payment Germany may create a prior charge upon her assets or revenues upon such detailed terms as shall be agreed to by the Reparation Commission.

If, nevertheless, Germany after a period of one year from the date on which the payment becomes due shall not have effected the said payment, the Reparation Commission shall do so in accordance with such instructions as may be given by the League of Nations, and, if necessary, by liquidating that part of the mines which is in question.

37. If, in consequence of the repurchase provided for in paragraph 36, the ownership of the mines or any part of them is transferred to Germany, the French State and French nationals shall have the right to purchase such amount of coal of the Saar Basin as their industrial and domestic needs are found at that time to require. An equitable arrangement regarding amounts of coal, duration of contract, and prices will be fixed in due time by the Council of the League of Nations.

38. It is understood that France and Germany may, by special agreements concluded before the time fixed for the payment of the price for the repurchase of the mines, modify the provisions of paragraphs 36 and 37.

39. The Council of the League of Nations shall make such provisions as may be necessary for the establishment of the régime which is to take effect after the decisions of the League of Nations mentioned in paragraph 35 have become operative, including an equitable apportionment of any obligations of the Government of the territory of the Saar Basin arising from loans raised by the Commission or from other causes.

From the coming into force of the new régime, the powers of the Governing Commission will terminate, except in the case provided for in paragraph 35 (a).

40. In all matters dealt with in the present Annex, the decisions of the Council of the League of Nations will be taken by a majority.

SECTION V.

ALSACE-LORRAINE.

The HIGH CONTRACTING PARTIES, recognising the moral obligation to redress the wrong done by Germany in 1871 both to the rights of France and to the wishes of the population of Alsace and Lorraine, which were separated from their country in spite of the solemn protest of their representatives at the Assembly of Bordeaux,

Agree upon the following Articles:

ARTICLE 51.

The territories which were ceded to Germany in accordance with the Preliminaries of Peace signed at Versailles on February 26, 1871, and the Treaty of Frankfort of May 10, 1871, are restored to French sovereignty as from the date of the Armistice of November 11, 1918.

The provisions of the Treaties establishing the delimitation of the frontiers before 1871 shall be restored.

ARTICLE 52.

The German Government shall hand over without delay to the French Government all archives, registers, plans, titles and documents of every kind concerning the civil, military, financial, judicial or other administrations of the territories restored to French sovereignty. If any of these documents, archives, registers, titles or plans have been misplaced, they will be restored by the German Government on the demand of the French Government.

ARTICLE 53.

Separate agreements shall be made between France and Germany dealing with the interests of the inhabitants of the territories referred to in Article 51, particularly as regards their civil rights, their business and the exercise of their professions, it being understood that Germany undertakes as from the present date to recognise and accept the regulations laid down in the Annex hereto regarding the nationality of the inhabitants or natives of the said territories, not to claim at any time or in any place whatsoever as German nationals those who shall have been declared on any ground to be French, to receive all others in her territory, and to conform, as regards the property of German Nationals in the territories indicated in Article 51, with the provisions of Article 297 and the Annex to Section IV of Part X (Economic Clauses) of the present Treaty.

Those German nationals who without acquiring French nationality shall receive permission from the French Government to reside in the said territories shall not be subjected to the provisions of the said Article.

ARTICLE 54.

Those persons who have regained French nationality in virtue of paragraph 1 of the Annex hereto will be held to be Alsace-Lorrainers for the purposes of the present Section.

The persons referred to in paragraph 2 of the said Annex will from the day on which they have claimed French nationality be held to be Alsace-Lorrainers with retroactive effect as from November 11, 1918. For those whose application is rejected, the privilege will terminate at the date of the refusal.

Such juridical persons will also have the status of Alsace-Lorrainers as shall have been recognised as possessing this quality, whether by the French administrative authorities or by a judicial decision.

ARTICLE 55.

The territories referred to in Article 51 shall return to France free and quit of all public debts under the conditions laid down in Article 255 of Part IX (Financial Clauses) of the present Treaty.

ARTICLE 56.

In conformity with the provisions of Article 256 of Part IX (Financial Clauses) of the present Treaty, France shall enter into possession of all property and estate, within the territories referred to in Article 51, which belong to the German Empire or German States, without any payment or credit on this account to any of the States ceding the territories.

This provision applies to all movable or immovable property of public or private domain together with all rights whatsoever belonging to the German Empire or German States or to their administrative areas.

Crown property and the property of the former Emperor or other German sovereigns shall be assimilated to property of the public domain.

ARTICLE 57.

Germany shall not take any action, either by means of stamping or by any other legal or administrative measures not applying equally to the rest of her territory, which may be to the detriment of the legal value or redeemability of German monetary instruments or monies which, at the date of the signature of the present Treaty, are legally current, and at that date are in the possession of the French Government.

ARTICLE 58.

A special Convention will determine the conditions for repayment in marks of the exceptional war expenditure advanced during the course of the war by Alsace-Lorraine or by the public bodies in Alsace-Lorraine on account of the Empire in accordance with German law, such as payment to the families of persons mobilised, requisitions, billeting of troops, and assistance to persons who have been evacuated.

In fixing the amount of these sums Germany shall be credited with that portion which Alsace-Lorraine would have contributed to the Empire to meet the expenses resulting from these payments, this contribution being calculated according to the proportion of the Imperial revenues derived from Alsace-Lorraine in 1913.

ARTICLE 59.

The French Government will collect for its own account the Imperial taxes, duties and dues of every kind leviable in the territories referred to in Article 51 and not collected at the time of the Armistice of November 11, 1918

ARTICLE 60.

The German Government shall without delay restore to Alsace-Lorrainers (individuals, juridical persons and public institutions) all property, rights and interests belonging to them on November 11, 1918, in so far as these are situated in German territory.

ARTICLE 61.

The German Government undertakes to continue and complete without delay the execution of the financial clauses regarding Alsace-Lorraine contained in the Armistice Conventions.

ARTICLE 62.

The German Government undertakes to bear the expense of all civil and military pensions which had been earned in Alsace-Lorraine on date of November 11, 1918, and the maintenance of which was a charge on the budget of the German Empire.

The German Government shall furnish each year the funds necessary for the payment in francs, at the average rate of exchange for that year, of the sums in marks to which persons resident in Alsace-Lorraine would have been entitled if Alsace-Lorraine had remained under German jurisdiction

ARTICLE 63.

For the purposes of the obligation assumed by Germany in Part VIII (Reparation) of the present Treaty to give compensation for damages caused to the civil populations of the Allied and Associated countries in the form of fines, the inhabitants of the territories referred to in Article 51 shall be assimilated to the above-mentioned populations.

ARTICLE 64.

The regulations concerning the control of the Rhine and of the Moselle are laid down in Part XII (Ports, Waterways and Railways) of the present Treaty.

ARTICLE 65.

Within a period of three weeks after the coming into force of the present Treaty, the port of Strasburg and the port of Kehl shall be constituted, for a period of seven years, a single unit from the point of view of exploitation.

The administration of this single unit will be carried on by a manager named by the Central Rhine Commission, which shall also have power to remove him.

This manager shall be of French nationality.

He will reside in Strasburg and will be subject to the supervision of the Central Rhine Commission.

There will be established in the two ports free zones in conformity with Part XII (Ports, Waterways and Railways) of the present Treaty.

A special Convention between France and Germany, which shall be submitted to the approval of the Central Rhine Commission, will fix the details of this organization, particularly as regards finance.

It is understood that for the purpose of the present Article the port of Kehl includes the whole of the area necessary for the movements of the port and the trains which serve it, including the harbour, quays and railroads, platforms, cranes, sheds and warehouses, silos, elevators and hydro-electric plants, which make up the equipment of the port.

The German Government undertakes to carry out all measures which shall be required of it in order to assure that all the making-up and switching of trains arriving at or departing from Kehl, whether for the right bank or the left bank of the Rhine, shall be carried on in the best conditions possible.

All property rights shall be safeguarded. In particular the administration of the ports shall not prejudice any property rights of the French or Baden railroads.

Equality of treatment as respects traffic shall be assured in both ports to the nationals, vessels and goods of every country.

In case at the end of the sixth year France shall consider that the progress made in the improvement of the port of Strasburg still requires a prolongation of this temporary régime, she may ask for such prolongation from the Central Rhine Commission, which may grant an extension for a period not exceeding three years.

Throughout the whole period of any such extension the free zones above provided for shall be maintained.

Pending appointment of the first manager by the Central Rhine Commission a provisional manager who shall be of French nationality may be appointed by the Principal Allied and Associated Powers subject to the foregoing provisions.

For all purposes of the present Article the Central Rhine Commission will decide by a majority of votes.

ARTICLE 66.

The railway and other bridges across the Rhine now existing within the

limits of Alsace-Lorraine shall, as to all their parts and their whole length, be the property of the French State, which shall ensure their upkeep.

ARTICLE 67.

The French Government is substituted in all the rights of the German Empire over all the railways which were administered by the Imperial railway administration and which are actually working or under construction.

The same shall apply to the rights of the Empire with regard to railway and tramway concessions within the territories referred to in Article 51.

This substitution shall not entail any payment on the part of the French State.

The frontier railway stations shall be established by a subsequent agreement, it being stipulated in advance that on the Rhine frontier they shall be situated on the right bank.

ARTICLE 68.

In accordance with the provisions of Article 268 of Chapter I of Section I of Part X (Economic Clauses) of the present Treaty, for a period of five years from the coming into force of the present Treaty, natural or manufactured products originating in and coming from the territories referred to in Article 51 shall, on importation into German customs territory, be exempt from all customs duty.

The French Government may fix each year, by decree communicated to the German Government, the nature and amount of the products which shall enjoy this exemption.

The amount of each product which may be thus sent annually into Germany shall not exceed the average of the amounts sent annually in the years 1911-1913.

Further, during the period of five years above-mentioned, the German Government shall allow the free export from Germany and the free reimportation into Germany, exempt from all customs duties and other charges (including internal charges), of yarns, tissues, and other textile materials or textile products of any kind and in any condition, sent from Germany into the territories referred to in Article 51, to be subjected there to any finishing process, such as bleaching, dyeing, printing, mercerization, gassing, twisting or dressing.

ARTICLE 69.

During a period of ten years from the coming into force of the present Treaty, central electric supply works situated in German territory and formerly furnishing electric power to the territories referred to in Article 51 or to any establishment the working of which passes permanently or temporarily from Germany to France, shall be required to continue such supply up to the amount of consumption corresponding to the undertakings and contracts current on November 11, 1918.

Such supply shall be furnished according to the contracts in force and at

a rate which shall not be higher than that paid to the said works by German nationals.

ARTICLE 70.

It is understood that the French Government preserves its right to prohibit in the future in the territories referred to in Article 51 all new German participation:

(1) In the management or exploitation of the public domain and of public services, such as railways, navigable waterways, water works, gas works, electric power, etc.;

(2) In the ownership of mines and quarries of every kind and in enterprises connected therewith;

(3) In metallurgical establishments, even though their working may not be connected with that of any mine.

ARTICLE 71.

As regards the territories referred to in Article 51, Germany renounces on behalf of herself and her nationals as from November 11, 1918, all rights under the law of May 25, 1910, regarding the trade in potash salts, and generally under any stipulations for the intervention of German organisations in the working of the potash mines. Similarly, she renounces on behalf of herself and her nationals all rights under any agreements, stipulations or laws which may exist to her benefit with regard to other products of the aforesaid territories.

ARTICLE 72.

The settlement of the questions relating to debts contracted before November 11, 1918, between the German Empire and the German States or their nationals residing in Germany on the one part and Alsace-Lorrainers residing in Alsace-Lorraine on the other part shall be effected in accordance with the provisions of Section III of Part X (Economic Clauses) of the present Treaty, the expression "before the war" therein being replaced by the expression "before November 11, 1918." The rate of exchange applicable in the case of such settlement shall be the average rate quoted on the Geneva Exchange during the month preceding November 11, 1918.

There may be established in the territories referred to in Article 51, for the settlement of the aforesaid debts under the conditions laid down in Section III of Part X (Economic Clauses) of the present Treaty, a special clearing office, it being understood that this office shall be regarded as a "central office" under the provisions of paragraph 1 of the Annex to the said Section.

ARTICLE 73.

The private property, rights and interests of Alsace-Lorrainers in Germany will be regulated by the stipulations of Section IV of Part X (Economic Clauses) of the present Treaty.

ARTICLE 74.

The French Government reserves the right to retain and liquidate all the property, rights and interests which German nationals or societies controlled by Germany possessed in the territories referred to in Article 51 on November 11, 1918, subject to the conditions laid down in the last paragraph of Article 53 above.

Germany will directly compensate her nationals who may have been dispossessed by the aforesaid liquidations.

The product of these liquidations shall be applied in accordance with the stipulations of Sections III and IV of Part X (Economic Clauses) of the present Treaty.

ARTICLE 75.

Notwithstanding the stipulation of Section V of Part X (Economic Clauses) of the present Treaty, all contracts made before the date of the promulgation in Alsace-Lorraine of the French decree of November 30, 1918, between Alsace-Lorrainers (whether individuals or juridical persons) or others resident in Alsace-Lorraine on the one part and the German Empire or German States and their nationals resident in Germany on the other part, the execution of which has been suspended by the Armistice or by subsequent French legislation, shall be maintained.

Nevertheless, any contract of which the French Government shall notify the cancellation to Germany in the general interest within a period of six months from the date of the coming into force of the present Treaty, shall be annulled except in respect of any debt or other pecuniary obligation arising out of any act done or money paid thereunder before November 11, 1918. If this dissolution would cause one of the parties substantial prejudice, equitable compensation, calculated solely on the capital employed without taking account of loss of profits, shall be accorded to the prejudiced party.

With regard to prescriptions, limitations and forfeitures in Alsace-Lorraine, the provisions of Articles 300. and 301 of Section V of Part X (Economic Clauses) shall be applied with the substitution for the expression "outbreak of war" of the expression "November 11, 1918," and for the expression "duration of the war" of the expression "period from November 11, 1918, to the date of the coming into force of the present Treaty."

ARTICLE 76.

Questions concerning rights in industrial, literary or artistic property of Alsace-Lorrainers shall be regulated in accordance with the general stipulations of Section VII of Part X (Economic Clauses) of the present Treaty, it being understood that Alsace-Lorrainers holding rights of this nature under German legislation will preserve full and entire enjoyment of those rights on German territory.

ARTICLE 77.

The German Government undertakes to pay over to the French Government such proportion of all reserves accumulated by the Empire or by public

or private bodies dependent upon it, for the purposes of disability and old age insurance, as would fall to the disability and old age insurance fund at Strasburg.

The same shall apply in respect of the capital and reserves accumulated in Germany falling legitimately to other social insurance, funds, to miners' superannuation funds, to the fund of the railways of Alsace-Lorraine, to other superannuation organisations established for the benefit of the personnel of public administrations and institutions operating in Alsace-Lorraine, and also in respect of the capital and reserves due by the insurance fund of private employees at Berlin, by reason of engagements entered into for the benefit of insured persons of that category resident in Alsace-Lorraine.

A special Convention shall determine the conditions and procedure of these transfers.

ARTICLE 78.

With regard to the execution of judgments, appeals and prosecutions, the following rules shall be applied:

(1) All civil and commercial judgments which shall have been given since August 3, 1914, by the Courts of Alsace-Lorraine between Alsace-Lorrainers, or between Alsace-Lorrainers and foreigners, or between foreigners, and which shall not have been appealed from before November 11, 1918, shall be regarded as final and susceptible of immediate execution without further formality.

When the judgment has been given between Alsace-Lorrainers and Germans or between Alsace-Lorrainers and subjects of the allies of Germany, it shall only be capable of execution after the issue of an *exequatur* by the corresponding new tribunal in the restored territory referred to in Article 51.

(2) All judgments given by German Courts since August 3, 1914, against Alsace-Lorrainers for political crimes or misdemeanors shall be regarded as null and void.

(3) All sentences passed since November 11, 1918, by the Court of the Empire at Leipzig on appeals against the decisions of the Courts of Alsace-Lorraine shall be regarded as null and void and shall be so pronounced. The papers in regard to the cases in which such sentences have been given shall be returned to the Courts of Alsace-Lorraine concerned.

All appeals to the Court of the Empire against decisions of the Courts of Alsace-Lorraine shall be suspended. The papers shall be returned under the aforesaid conditions for transfer without delay to the French Cour de Cassation, which shall be competent to decide them.

(4) All prosecutions in Alsace-Lorraine for offences committed during the period between November 11, 1918, and the coming into force of the present Treaty will be conducted under German law except in so far as this has been modified by decrees duly published on the spot by the French authorities.

(5) All other questions as to competence, procedure or administration of justice shall be determined by a special Convention between France and Germany.

ARTICLE 79.

The stipulations as to nationality contained in the Annex hereto shall be considered as of equal force with the provisions of the present Section.

All other questions concerning Alsace-Lorraine which are not regulated by the present Section and the Annex thereto or by the general provisions of the present Treaty will form the subject of further conventions between France and Germany.

ANNEX.

1. As from November 11, 1918, the following persons are *ipso facto* reinstated in French nationality:

(1) Persons who lost French nationality by the application of the Franco-German Treaty of May 10, 1871, and who have not since that date acquired any nationality other than German;

(2) The legitimate or natural descendants of the persons referred to in the immediately preceding paragraph, with the exception of those whose ascendants in the paternal line include a German who migrated into Alsace-Lorraine after July 15, 1870;

(3) All persons born in Alsace-Lorraine of unknown parents, or whose nationality is unknown.

2. Within the period of one year from the coming into force of the present Treaty, persons included in any of the following categories may claim French nationality:

(1) All persons not restored to French nationality under paragraph 1 above, whose ascendants include a Frenchman or Frenchwoman who lost French nationality under the conditions referred to in the said paragraph;

(2) All foreigners, not nationals of a German State, who acquired the status of a citizen of Alsace-Lorraine before August 3, 1914;

(3) All Germans domiciled in Alsace-Lorraine, if they have been so domiciled since a date previous to July 15, 1870, or if one of their ascendants was at that date domiciled in Alsace-Lorraine;

(4) All Germans born or domiciled in Alsace-Lorraine who have served in the Allied or Associated armies during the present war, and their descendants;

(5) All persons born in Alsace-Lorraine before May 10, 1871, of foreign parents, and the descendants of such persons;

(6) The husband or wife of any person whose French nationality may have been restored under paragraph 1, or who may have claimed and obtained French nationality in accordance with the preceding provisions.

The legal representative of a minor may exercise, on behalf of that minor, the right to claim French nationality; and if that right has not been exercised, the minor may claim French nationality within the year following his majority.

Except in the cases provided for in No. (6) of the present paragraph the French authorities reserve to themselves the right, in individual cases, to reject the claim to French nationality.

3. Subject to the provisions of paragraph 2, Germans born or domiciled in Alsace-Lorraine shall not acquire French nationality by reason of the restoration of Alsace-Lorraine to France, even though they may have the status of citizens of Alsace-Lorraine.

They may acquire French nationality only by naturalisation, on condition of having been domiciled in Alsace-Lorraine from a date previous to August 3, 1914, and of submitting proof of unbroken residence within the restored territory for a period of three years from November 11, 1918.

France will be solely responsible for their diplomatic and consular protection from the date of their application for French naturalisation.

The French Government shall determine the procedure by which reinstatement in French nationality as of right shall be effected, and the conditions under which decisions shall be given upon claims to such nationality and applications for naturalisation, as provided by the present Annex.

SECTION VI.

AUSTRIA.

ARTICLE 80.

Germany acknowledges and will respect strictly the independence of Austria, within the frontiers which may be fixed in a Treaty between that State and the Principal Allied and Associated Powers; she agrees that this independence shall be inalienable, except with the consent of the Council of the League of Nations.

SECTION VII.

CZECHO-SLOVAK STATE.

ARTICLE 81.

Germany, in conformity with the action already taken by the Allied and Associated Powers, recognizes the complete independence of the Czecho-Slovak State which will include the autonomous territory of the Ruthenians to the south of the Carpathians. Germany hereby recognizes the frontiers of this State as determined by the Principal Allied and Associated Powers and the other interested States.

ARTICLE 82.

The old frontier as it existed on August 3, 1914, between Austria-Hungary and the German Empire will constitute the frontier between Germany and the Czecho-Slovak State.

ARTICLE 83.

Germany renounces in favour of the Czecho-Slovak State all rights and title over the portion of Silesian territory defined as follows:

starting from a point about 2 kilometres south-east of Katscher, on the boundary between the *Kreise* of Leobschütz and Ratibor:

the boundary between the two *Kreise*;

then the former boundary between Germany and Austria-Hungary up to a point on the Oder immediately to the south of the Ratibor-Oderberg railway;

thence, towards the north-west and up to a point about 2 kilometres to the south-east of Katscher:

a line to be fixed on the spot passing to the west of Kranowitz.

A Commission composed of seven members, five nominated by the Principal Allied and Associated Powers, one by Poland and one by the Czecho-Slovak State, will be appointed fifteen days after the coming into force of the present Treaty to trace on the spot the frontier line between Poland and the Czecho-Slovak State.

The decisions of this Commission will be taken by a majority and shall be binding on the parties concerned.

Germany hereby agrees to renounce in favour of the Czecho-Slovak State all rights and title over the part of the *Kreis* of Leobschütz comprised within the following boundaries in case after the determination of the frontier between Germany and Poland the said part of that *Kreis* should become isolated from Germany:

from the south-eastern extremity of the salient of the former Austrian frontier at about 5 kilometres to the west of Leobschütz southwards and up to the point of junction with the boundary between the *Kreise* of Leobschütz and Ratibor:

the former frontier between Germany and Austria-Hungary;

then, northwards, the administrative boundary between the *Kreise* of Leobschütz and Ratibor up to a point situated about 2 kilometres to the south-east of Katscher;

thence, north-westwards and up to the starting-point of this definition:

a line to be fixed on the spot passing to the east of Katscher.

ARTICLE 84.

German nationals habitually resident in any of the territories recognized as forming a part of the Czecho-Slovak State will obtain Czecho-Slovak nationality *ipso facto* and lose their German nationality.

ARTICLE 85.

Within a period of two years from the coming into force of the present Treaty, German nationals over eighteen years of age habitually resident in any of the territories recognized as forming part of the Czecho-Slovak State will be entitled to opt for German nationality. Czecho-Slovaks who are German nationals and are habitually resident in Germany will have a similar right to opt for Czecho-Slovak nationality.

Option by a husband will cover his wife and option by parents will cover their children under eighteen years of age.

Persons who have exercised the above right to opt must within the succeeding twelve months transfer their place of residence to the State for which they have opted.

They will be entitled to retain their landed property in the territory of the other State where they had their place of residence before exercising the right to opt. They may carry with them their moveable property of every description. No export or import duties may be imposed upon them in connection with the removal of such property.

Within the same period Czecho-Slovaks who are German nationals and are in a foreign country will be entitled, in the absence of any provisions to the contrary in the foreign law, and if they have not acquired the foreign nationality, to obtain Czecho-Slovak nationality and lose their German nationality by complying with the requirements laid down by the Czecho-Slovak State.

ARTICLE 86.

The Czecho-Slovak State accepts and agrees to embody in a Treaty with the Principal Allied and Associated Powers such provisions as may be deemed necessary by the said Powers to protect the interests of inhabitants of that State who differ from the majority of the population in race, language or religion.

The Czecho-Slovak State further accepts and agrees to embody in a Treaty with the said Powers such provisions as they may deem necessary to protect freedom of transit and equitable treatment of the commerce of other nations.

The proportion and nature of the financial obligations of Germany and Prussia which the Czecho-Slovak State will have to assume on account of the Silesian territory placed under its sovereignty will be determined in accordance with Article 254 of Part IX (Financial Clauses) of the present Treaty.

Subsequent agreements will decide all questions not decided by the present Treaty which may arise in consequence of the cession of the said territory.

SECTION VIII.

POLAND.

ARTICLE 87.

Germany, in conformity with the action already taken by the Allied and Associated Powers, recognizes the complete independence of Poland, and renounces in her favour all rights and title over the territory bounded by the Baltic Sea, the eastern frontier of Germany as laid down in Article 27 of Part II (Boundaries of Germany) of the present Treaty up to a point situated about 2 kilometres to the east of Lorzendorf, then a line to the acute angle which the northern boundary of Upper Silesia makes about 3 kilometres north-west of Simmenau, then the boundary of Upper Silesia to its meeting point with the old frontier between Germany and Russia, then this frontier to the point where it crosses the course of the Niemen, and then the

northern frontier of East Prussia as laid down in Article 28 of Part II aforesaid.

The provisions of this Article do not, however, apply to the territories of East Prussia and the Free City of Danzig, as defined in Article 28 of Part II (Boundaries of Germany) and in Article 100 of Section XI (Danzig) of this Part.

The boundaries of Poland not laid down in the present Treaty will be subsequently determined by the Principal Allied and Associated Powers.

A Commission consisting of seven members, five of whom shall be nominated by the Principal Allied and Associated Powers, one by Germany and one by Poland, shall be constituted fifteen days after the coming into force of the present Treaty to delimit on the spot the frontier line between Poland and Germany.

The decisions of the Commission will be taken by a majority of votes and shall be binding upon the parties concerned.

ARTICLE 88.

In the portion of Upper Silesia included within the boundaries described below, the inhabitants will be called upon to indicate by a vote whether they wish to be attached to Germany or to Poland:

starting from the northern point of the salient of the old province of Austrian Silesia situated about 8 kilometres east of Neustadt, the former frontier between Germany and Austria to its junction with the boundary between the *Kreise* of Leobschütz and Ratibor;

thence in a northerly direction to a point about 2 kilometres south-east of Katscher:

the boundary between the *Kreise* of Leobschütz and Ratibor;

thence in a south-easterly direction to a point on the course of the Oder immediately south of the Ratibor-Oderberg railway:

a line to be fixed on the ground passing south of Kranowitz;

thence the old boundary between Germany and Austria, then the old boundary between Germany and Russia to its junction with the administrative boundary between Posnania and Upper Silesia;

thence this administrative boundary to its junction with the administrative boundary between Upper and Middle Silesia;

thence westwards to the point where the administrative boundary turns in an acute angle to the south-east about 3 kilometres north-west of Simmenau: the boundary between Upper and Middle Silesia;

then in a westerly direction to a point to be fixed on the ground about 2 kilometres east of Lorzendorf:

a line to be fixed on the ground passing north of Klein Hennersdorf:

thence southwards to the point where the boundary between Upper and Middle Silesia cuts the Städtel-Karlsruhe road:

a line to be fixed on the ground passing west of Hennersdorf, Polkowitz, Noldau, Steinersdorf and Dammer, and east of Strehlitz, Nassadel, Eckersdorf, Schwirz and Städtel;

thence the boundary between Upper and Middle Silesia to its junction with the eastern boundary of the *Kreis* of Falkenberg;

then the eastern boundary of the *Kreis* of Falkenberg to the point of the salient which is 3 kilometres east of Puschine;

thence to the northern point of the salient of the old province of Austrian Silesia situated about 8 kilometres east of Neustadt:

a line to be fixed on the ground passing east of Zülz.

The régime under which this plebiscite will be taken and given effect to is laid down in the Annex hereto.

The Polish and German Governments hereby respectively bind themselves to conduct no prosecutions on any part of their territory and to take no exceptional proceedings for any political action performed in Upper Silesia during the period of the régime laid down in the Annex hereto and up to the settlement of the final status of the country.

Germany hereby renounces in favour of Poland all rights and title over the portion of Upper Silesia lying beyond the frontier line fixed by the Principal Allied and Associated Powers as the result of the plebiscite.

ANNEX.

1. Within fifteen days from the coming into force of the present Treaty the German troops and such officials as may be designated by the Commission set up under the provisions of paragraph 2 shall evacuate the plebiscite area. Up to the moment of the completion of the evacuation they shall refrain from any form of requisitioning in money or in kind and from all acts likely to prejudice the material interests of the country.

Within the same period the Workmen's and Soldiers' Councils which have been constituted in this area shall be dissolved. Members of such Councils who are natives of another region and are exercising their functions at the date of the coming into force of the present Treaty, or who have gone out of office since March 1, 1919, shall be evacuated.

All military and semi-military unions formed in the said area by inhabitants of the district shall be immediately disbanded. All members of such military organizations who are not domiciled in the said area shall be required to leave it.

2. The plebiscite area shall be immediately placed under the authority of an International Commission of four members to be designated by the following Powers: the United States of America, France, the British Empire and Italy. It shall be occupied by troops belonging to the Allied and Associated Powers, and the German Government undertakes to give facilities for the transference of these troops to Upper Silesia.

3. The Commission shall enjoy all the powers exercised by the German or the Prussian Government, except those of legislation or taxation. It shall also be substituted for the Government of the province and the *Regierungsbezirk*.

It shall be within the competence of the Commission to interpret the

powers hereby conferred upon it and to determine to what extent it shall exercise them; and to what extent they shall be left in the hands of the existing authorities.

Changes in the existing laws and the existing taxation shall only be brought into force with the consent of the Commission.

The Commission will maintain order with the help of the troops which will be at its disposal, and, to the extent which it may deem necessary, by means of gendarmerie recruited among the inhabitants of the country.

The Commission shall provide immediately for the replacement of the evacuated German officials and, if occasion arises, shall itself order the evacuation of such authorities and proceed to the replacement of such local authorities as may be required.

It shall take all steps which it thinks proper to ensure the freedom, fairness and secrecy of the vote. In particular, it shall have the right to order the expulsion of any person who may in any way have attempted to distort the result of the plebiscite by methods of corruption or intimidation.

The Commission shall have full power to settle all questions arising from the execution of the present clauses. It shall be assisted by technical advisors chosen by it from among the local population.

The decisions of the Commission shall be taken by a majority vote.

4. The vote shall take place at such date as may be determined by the Principal Allied and Associated Powers, but not sooner than six months or later than eighteen months after the establishment of the Commission in the area.

The right to vote shall be given to all persons without distinction of sex who:

(a) Have completed their twentieth year on the 1st January of the year in which the plebiscite takes place;

(b) Were born in the plebiscite area or have been domiciled there since a date to be determined by the Commission, which shall not be subsequent to January 1, 1919, or who have been expelled by the German authorities and have not retained their domicile there.

Persons convicted of political offences shall be enabled to exercise their right of voting.

Every person will vote in the commune where he is domiciled or in which he was born, if he has not retained his domicile in the area.

The result of the vote will be determined by communes according to the majority of votes in each commune.

5. On the conclusion of the voting, the number of votes cast in each commune will be communicated by the Commission to the Principal Allied and Associated Powers, with a full report as to the taking of the vote and a recommendation as to the line which ought to be adopted as the frontier of Germany in Upper Silesia. In this recommendation regard will be paid to the wishes of the inhabitants as shown by the vote, and to the geographical and economic conditions of the locality.

6. As soon as the frontier has been fixed by the Principal Allied and Associated Powers, the German authorities will be notified by the International Commission that they are free to take over the administration of the territory which it is recognised should be German; the said authorities must proceed to do so within one month of such notification and in the manner prescribed by the Commission.

Within the same period and in the manner prescribed by the Commission, the Polish Government must proceed to take over the administration of the territory which it is recognised should be Polish.

When the administration of the territory has been provided for by the German and Polish authorities respectively, the powers of the Commission will terminate.

The cost of the army of occupation and expenditure by the Commission, whether in discharge of its own functions or in the administration of the territory, will be a charge on the area.

ARTICLE 89.

Poland undertakes to accord freedom of transit to persons, goods, vessels, carriages, wagons and mails in transit between East Prussia and the rest of Germany over Polish territory, including territorial waters, and to treat them at least as favourably as the persons, goods, vessels, carriages, wagons and mails respectively of Polish or of any other more favoured nationality, origin, importation, starting point, or ownerships as regards facilities, restrictions and all other matters.

Goods in transit shall be exempt from all customs or other similar duties.

Freedom of transit will extend to telegraphic and telephonic services under the conditions laid down by the conventions referred to in Article 98.

ARTICLE 90.

Poland undertakes to permit for a period of fifteen years the exportation to Germany of the products of the mines in any part of Upper Silesia transferred to Poland in accordance with the present Treaty.

Such products shall be free from all export duties or other charges or restrictions on exportation.

Poland agrees to take such steps as may be necessary to secure that any such products shall be available for sale to purchasers in Germany on terms as favourable as are applicable to like products sold under similar conditions to purchasers in Poland or in any other country.

ARTICLE 91.

German nationals habitually resident in territories recognised as forming part of Poland will acquire Polish nationality *ipso facto* and will lose their German nationality.

German nationals, however, or their descendants who became resident in

these territories after January 1, 1908, will not acquire Polish nationality without a special authorisation from the Polish State.

Within a period of two years after the coming into force of the present Treaty, German nationals over 18 years of age habitually resident in any of the territories recognised as forming part of Poland will be entitled to opt for German nationality.

Poles who are German nationals over 18 years of age and habitually resident in Germany will have a similar right to opt for Polish nationality.

Option by a husband will cover his wife and option by parents will cover their children under 18 years of age.

Persons who have exercised the above right to opt may within the succeeding twelve months transfer their place of residence to the State for which they have opted.

They will be entitled to retain their immovable property in the territory of the other State where they had their place of residence before exercising the right to opt.

They may carry with them their movable property of every description. No export or import duties or charges may be imposed upon them in connection with the removal of such property.

Within the same period Poles who are German nationals and are in a foreign country will be entitled, in the absence of any provisions to the contrary in the foreign law, and if they have not acquired the foreign nationality, to obtain Polish nationality and to lose their German nationality by complying with the requirements laid down by the Polish State.

In the portion of Upper Silesia submitted to a plebiscite the provisions of this Article shall only come into force as from the definitive attribution of the territory.

ARTICLE 92.

The proportion and the nature of the financial liabilities of Germany and Prussia which are to be borne by Poland will be determined in accordance with Article 254 of Part IX (Financial Clauses) of the present Treaty.

There shall be excluded from the share of such financial liabilities assumed by Poland that portion of the debt which, according to the finding of the Reparation Commission referred to in the above-mentioned Article, arises from measures adopted by the German and Prussian Governments with a view to German colonisation in Poland.

In fixing under Article 256 of the present treaty the value of the property and possessions belonging to the German Empire and to the German States which pass to Poland with the territory transferred above, the Reparation Commission shall exclude from the valuation buildings, forests and other State property which belonged to the former Kingdom of Poland; Poland shall acquire these properties free of all costs and charges.

In all the German territory transferred in accordance with the present Treaty and recognised as forming definitively part of Poland, the property, rights and interests of German nationals shall not be liquidated under Article

297 by the Polish Government except in accordance with the following provisions:

(1) The proceeds of the liquidation shall be paid direct to the owner;

(2) If on his application the Mixed Arbitral Tribunal provided for by Section VI of Part X (Economic Clauses) of the present Treaty, or an arbitrator appointed by that Tribunal, is satisfied that the conditions of the sale or measures taken by the Polish Government outside its general legislation were unfairly prejudicial to the price obtained, they shall have discretion to award to the owner equitable compensation to be paid by the Polish Government.

Further agreements will regulate all questions arising out of the cession of the above territory which are not regulated by the present Treaty.

ARTICLE 93.

Poland accepts and agrees to embody in a Treaty with the Principal Allied and Associated Powers such provisions as may be deemed necessary by the said Powers to protect the interests of inhabitants of Poland who differ from the majority of the population in race, language or religion.

Poland further accepts and agrees to embody in a Treaty with the said Powers such provisions as they may deem necessary to protect freedom of transit and equitable treatment of the commerce of other nations.

SECTION IX.

EAST PRUSSIA.

ARTICLE 94.

In the area between the southern frontier of East Prussia, as described in Article 28 of Part II (Boundaries of Germany) of the present treaty, and the line described below, the inhabitants will be called upon to indicate by a vote the State to which they wish to belong:

The western and northern boundary of *Regierungsbezirk* Allenstein to its junction with the boundary between the *Kreise* of Oletsko and Angerburg; thence, the northern boundary of the *Kreis* of Oletsko to its junction with the old frontier of East Prussia.

ARTICLE 95.

The German troops and authorities will be withdrawn from the area defined above within a period not exceeding fifteen days after the coming into force of the present Treaty. Until the evacuation is completed they will abstain from all requisitions in money or in kind and from all measures injurious to the economic interests of the country.

On the expiration of the above-mentioned period the said area will be placed

under the authority of an International Commission of five members appointed by the Principal Allied and Associated Powers. This Commission will have general powers of administration and, in particular, will be charged with the duty of arranging for the vote and of taking such measures as it may deem necessary to ensure its freedom, fairness and secrecy. The Commission will have all necessary authority to decide any questions to which the execution of these provisions may give rise. The Commission will make such arrangements as may be necessary for assistance in the exercise of its functions by officials chosen by itself from the local population. Its decisions will be taken by a majority.

Every person, irrespective of sex, will be entitled to vote who:

(a) Is 20 years of age at the date of the coming into force of the present Treaty, and

(b) Was born within the area where the vote will take place or has been habitually resident there from a date to be fixed by the Commission.

Every person will vote in the commune where he is habitually resident or, if not habitually resident in the area, in the commune where he was born.

The result of the vote will be determined by communes (*Gemeinde*) according to the majority of the votes in each commune.

On the conclusion of the voting the number of votes cast in each commune will be communicated by the Commission to the Principal Allied and Associated Powers, with a full report as to the taking of the vote and a recommendation as to the line which ought to be adopted as the boundary of East Prussia in this region. In this recommendation regard will be paid to the wishes of the inhabitants as shown by the vote and to the geographical and economic conditions of the locality. The Principal Allied and Associated Powers will then fix the frontier between East Prussia and Poland in this region.

If the line fixed by the Principal Allied and Associated Powers is such as to exclude from East Prussia any part of the territory defined in Article 94, the renunciation of its rights by Germany in favour of Poland, as provided in Article 87 above, will extend to the territories so excluded.

As soon as the line has been fixed by the Principal Allied and Associated Powers, the authorities administering East Prussia will be notified by the International Commission that they are free to take over the administration of the territory to the north of the line so fixed, which they shall proceed to do within one month of such notification and in the manner prescribed by the Commission. Within the same period and as prescribed by the Commission, the Polish Government must proceed to take over the administration of the territory to the south of the line. When the administration of the territory by the East Prussian and Polish authorities respectively has been provided for, the powers of the Commission will terminate.

Expenditure by the Commission, whether in the discharge of its own functions or in the administration of the territory, will be borne by the local revenues. East Prussia will be required to bear such proportion of any deficit as may be fixed by the Principal Allied and Associated Powers.

ARTICLE 96.

In the area comprising the *Kreise* of Stuhm and Rosenberg and the portion of the *Kreis* of Marienburg which is situated east of the Nogat and that of Marienwarder east of the Vistula, the inhabitants will be called upon to indicate by a vote, to be taken in each commune (*Gemeinde*), whether they desire the various communes situated in this territory to belong to Poland or to East Prussia.

ARTICLE 97.

The German troops and authorities will be withdrawn from the area defined in Article 96 within a period not exceeding fifteen days after the coming into force of the present Treaty. Until the evacuation is completed they will abstain from all requisitions in money or in kind and from all measures injurious to the economic interests of the country.

On the expiration of the above-mentioned period, the said area will be placed under the authority of an International Commission of five members appointed by the Principal Allied and Associated Powers. This Commission, supported if occasion arises by the necessary forces, will have general powers of administration and in particular will be charged with the duty of arranging for the vote and of taking such measures as it may deem necessary to ensure its freedom, fairness and secrecy. The Commission will conform as far as possible to the provisions of the present Treaty relating to the plebiscite in the Allenstein area; its decisions will be taken by a majority.

Expenditure by the Commission, whether in the discharge of its own functions or in the administration of the territory, will be borne by the local revenues.

On the conclusion of the voting the number of votes cast in each commune will be communicated by the Commission to the Principal Allied and Associated Powers with a full report as to the taking of the vote and a recommendation as to the line which ought to be adopted as the boundary of East Prussia in this region. In this recommendation regard will be paid to the wishes of the inhabitants as shown by the vote and to the geographical and economic conditions of the locality. The Principal Allied and Associated Powers will then fix the frontier between East Prussia and Poland in this region, leaving in any case to Poland for the whole of the section bordering on the Vistula full and complete control of the river including the east bank as far east of the river as may be necessary for its regulation and improvement. Germany agrees that in any portion of the said territory which remains German, no fortifications shall at any time be erected.

The Principal Allied and Associated Powers will at the same time draw up regulations for assuring to the population of East Prussia to the fullest extent and under equitable conditions access to the Vistula and the use of it for themselves, their commerce and their boats.

The determination of the frontier and the foregoing regulations shall be binding upon all the parties concerned.

When the administration of the territory has been taken over by the East

Prussian and Polish authorities respectively, the powers of the Commission will terminate.

ARTICLE 98.

Germany and Poland undertake, within one year of the coming into force of this Treaty, to enter into conventions of which the terms, in case of difference, shall be settled by the Council of the League of Nations, with the object of securing, on the one hand to Germany full and adequate railroad, telegraphic and telephonic facilities for communication between the rest of Germany and East Prussia over the intervening Polish territory, and on the other hand to Poland full and adequate railroad, telegraphic and telephonic facilities for communication between Poland and the Free City of Danzig over any German territory that may, on the right bank of the Vistula, intervene between Poland and the Free City of Danzig.

SECTION X.

MEMEL.

ARTICLE 99.

Germany renounces in favour of the Principal Allied and Associated Powers all rights and title over the territories included between the Baltic, the north-eastern frontier of East Prussia as defined in Article 28 of Part II (Boundaries of Germany) of the present Treaty and the former frontier between Germany and Russia.

Germany undertakes to accept the settlement made by the Principal Allied and Associated Powers in regard to these territories, particularly in so far as concerns the nationality of the inhabitants.

SECTION XI.

FREE CITY OF DANZIG.

ARTICLE 100.

Germany renounces in favour of the Principal Allied and Associated Powers all rights and title over the territory comprised within the following limits:

from the Baltic Sea southwards to the point where the principal channels of navigation of the Nogat and the Vistula (Weichsel) meet:

the boundary of East Prussia as described in Article 28 of Part II (Boundaries of Germany) of the present Treaty;

thence the principal channel of navigation of the Vistula downstream to a point about 6½ kilometres north of the bridge of Dirschau;

thence north-west to point 5, 1½ kilometres south-east of the church of Gütthland:

a line to be fixed on the ground;
thence in a general westerly direction to the salient made by the boundary of the *Kreis* of Berent $8\frac{1}{2}$ kilometres north-east of Schöneck:
a line to be fixed on the ground passing between Mühlbanz on the south and Rambeltsch on the north;
thence the boundary of the *Kreis* of Berent westwards to the re-entrant which it forms 6 kilometres north-north-west of Schöneck;
thence to a point on the median line of Lonkener See:
a line to be fixed on the ground passing north of Neu Fietz and Schatarpi and south of Barenhütte and Lonken;
thence the median line of Lonkener See to its northernmost point;
thence to the southern end of Pollenziner See:
a line to be fixed on the ground;
thence the median line of Pollenziner See to its northernmost point;
thence in a north-easterly direction to a point about 1 kilometre south of Koliebkén church, where the Danzig-Neustadt railway crosses a stream:
a line to be fixed on the ground passing south-east of Kamehlen, Krissau, Fidlín, Sulmin (Richthof), Mattern Schäferei, and to the north-west of Neuendorf, Marschau, Czapielken, Hoch- and Klein-Kelpin, Pulvermühl, Renneberg and the towns of Oliva and Zoppot;
thence the course of the stream mentioned above to the Baltic Sea.
The boundaries described above are drawn on a German, map scale 1/100,000, attached to the present Treaty (Map No. 3).

ARTICLE 101.

A Commission composed of three members appointed by the Principal Allied and Associated Powers, including a High Commissioner as President, one member appointed by Germany and one member appointed by Poland, shall be constituted within fifteen days of the coming into force of the present Treaty for the purpose of delimiting on the spot the frontier of the territory as described above, taking into account as far as possible the existing communal boundaries.

ARTICLE 102.

The Principal Allied and Associated Powers undertake to establish the town of Danzig, together with the rest of the territory described in Article 100, as a Free City. It will be placed under the protection of the League of Nations.

ARTICLE 103.

A constitution for the Free City of Danzig shall be drawn up by the duly appointed representatives of the Free City in agreement with a High Commissioner to be appointed by the League of Nations. This constitution shall be placed under the guarantee of the League of Nations.

The High Commissioner will also be entrusted with the duty of dealing

in the first instance with all differences arising between Poland and the Free City of Danzig in regard to this Treaty or any arrangements or agreements made thereunder.

The High Commissioner shall reside at Danzig.

ARTICLE 104.

The Principal Allied and Associated Powers undertake to negotiate a Treaty between the Polish Government and the Free City of Danzig, which shall come into force at the same time as the establishment of the said Free City, with the following objects:

(1) To effect the inclusion of the Free City of Danzig within the Polish Customs frontiers, and to establish a free area in the port;

(2) To ensure to Poland without any restriction the free use and service of all waterways, docks, basins, wharves and other works within the territory of the Free City necessary for Polish imports and exports;

(3) To ensure to Poland the control and administration of the Vistula and of the whole railway system within the Free City, except such street and other railways as serve primarily the needs of the Free City, and of postal, telegraphic and telephonic communication between Poland and the port of Danzig;

(4) To ensure to Poland the right to develop and improve the waterways, docks, basins, wharves, railways and other works and means of communication mentioned in this Article, as well as to lease or purchase through appropriate processes such land and other property as may be necessary for these purposes;

(5) To provide against any discrimination within the Free City of Danzig to the detriment of citizens of Poland and other persons of Polish origin or speech;

(6) To provide that the Polish Government shall undertake the conduct of the foreign relations of the Free City of Danzig as well as the diplomatic protection of citizens of that city when abroad.

ARTICLE 105.

On the coming into force of the present Treaty German nationals ordinarily resident in the territory described in Article 100 will *ipso facto* lose their German nationality in order to become nationals of the Free City of Danzig.

ARTICLE 106.

Within a period of two years from the coming into force of the present Treaty, German nationals over 18 years of age ordinarily resident in the territory described in Article 100 will have the right to opt for German nationality.

Option by a husband will cover his wife and option by parents will cover their children less than 18 years of age

All persons who exercise the right of option referred to above must during the ensuing twelve months transfer their place of residence to Germany.

These persons will be entitled to preserve the immovable property possessed by them in the territory of the Free City of Danzig. They may carry with them their movable property of every description. No export or import duties shall be imposed upon them in this connection.

ARTICLE 107.

All property situated within the territory of the Free City of Danzig belonging to the German Empire or to any German State shall pass to the Principal Allied and Associated Powers for transfer to the Free City of Danzig or to the Polish State as they may consider equitable.

ARTICLE 108.

The proportion and nature of the financial liabilities of Germany and of Prussia to be borne by the Free City of Danzig shall be fixed in accordance with Article 254 of Part IX (Financial Clauses) of the present Treaty.

All other questions which may arise from the cession of the territory referred to in Article 100 shall be settled by further agreements.

SECTION XII.

SCHLESWIG.

ARTICLE 109.

The frontier between Germany and Denmark shall be fixed in conformity with the wishes of the population.

For this purpose, the population inhabiting the territories of the former German Empire situated to the north of a line, from East to West (shown by a brown line on the map No. 4, annexed to the present Treaty):

leaving the Baltic Sea about 13 kilometres east-north-east of Flensburg, running south-west so as to pass south-east of: Sygum, Ringsberg, Munkbrarup, Adelby, Tastrup, Jarplund, Oversee, and north-west of: Langballigholz, Langballig, Bönstrup, Rüllschau, Weseby, Kleinwolstrup, Gross-Solt, thence westwards passing south of Frörup and north of Wanderup, thence in a south-westerly direction passing south-east of Oxlund, Stieglund and Ostenau and north-west of the villages on the Wanderup-Kollund road, thence in a north-westerly direction passing south-west of Löwenstedt, Joldelund, Goldelune, and north-east of Kolkerheide and Högel to the bend of the Soholmer Au, about 1 kilometre east of Soholm, where it meets the southern boundary of the *Kreis* of Tondern, following this boundary to the North Sea,

passing south of the islands of Fohr and Amrum and north of the islands of Oland and Langeness,

shall be called upon to pronounce by a vote which will be taken under the following conditions:

(1) Within a period not exceeding ten days from the coming into force of the present Treaty, the German troops and authorities (including the *Oberpräsidenten, Regierungs-präsidenten, Landrathe, Amtsvorsteher, Oberbürgermeister*) shall evacuate the zone lying to the north of the line above fixed.

Within the same period the Workmen's and Soldiers' Councils which have been constituted in this zone shall be dissolved; members of such Councils who are natives of another region and are exercising their functions at the date of the coming into force of the present Treaty, or who have gone out of office since March 1, 1919, shall also be evacuated.

The said zone shall immediately be placed under the authority of an International Commission, composed of five members, of whom three will be designated by the Principal Allied and Associated Powers; the Norwegian and Swedish Governments will each be requested to designate a member; in the event of their failing to do so, these two members will be chosen by the Principal Allied and Associated Powers.

The Commission, assisted in case of need by the necessary forces, shall have general powers of administration. In particular, it shall at once provide for filling the places of the evacuated German authorities, and if necessary shall itself give orders for their evacuation, and proceed to fill the places of such local authorities as may be required. It shall take all steps which it thinks proper to ensure the freedom, fairness, and secrecy of the vote. It shall be assisted by German and Danish technical advisers chosen by it from among the local population. Its decisions will be taken by a majority.

One half of the expenses of the Commission and of the expenditure occasioned by the plebiscite shall be paid by Germany.

(2) The right to vote shall be given to all persons, without distinction of sex, who:

(a) Have completed their twentieth year at the date of the coming into force of the present Treaty; and

(b) Were born in the zone in which the plebiscite is taken, or have been domiciled there since a date before January 1, 1900, or had been expelled by the German authorities without having retained their domicile there.

Every person will vote in the commune (*Gemeinde*) where he is domiciled or of which he is a native.

Military persons, officers, non-commissioned officers and soldiers of the German army, who are natives of the zone of Schleswig in which the plebiscite is taken, shall be given the opportunity to return to their native place in order to take part in the voting there.

(3) In the section of the evacuated zone lying to the north of a line, from East to West (shown by a red line on map No. 4) which is annexed to the present Treaty):

passing south of the island of Alsen and following the median line of Flensburg Fjord,

leaving the fjord about 6 kilometres north of Flensburg and following the course of the stream flowing past Kupfermühle upstream to a point north of Niehuus,

passing north of Pattburg and Ellund and south of Fröslee to meet the eastern boundary of the *Kreis* of Tondern at its junction with the boundary between the old jurisdictions of Slogs and Kjær (*Slogs Herred* and *Kjær Herred*),

following the latter boundary to where it meets the Scheidebek, following the course of the Scheidebek (*Alte Au*), *Süder Au* and *Wied Au* downstream successively to the point where the latter bends northwards about 1,500 metres west of Ruttebüll,

thence, in a west-north-westerly direction to meet the North Sea north of Sieltoft,

thence, passing north of the island of Sylt,
the vote above provided for shall be taken within a period not exceeding three weeks after the evacuation of the country by the German troops and authorities.

The result will be determined by the majority of votes cast in the whole of this section.: This result will be immediately communicated by the Commission to the Principal Allied and Associated Powers and proclaimed.

If the vote results in favour of the reincorporation of this territory in the Kingdom of Denmark, the Danish Government in agreement with the Commission will be entitled to effect its occupation with their military and administrative authorities immediately after the proclamation.

(4) In the section of the evacuated zone situated to the south of the preceding section and to the north of the line which starts from the Baltic Sea 13 kilometres from Flensburg and ends north of the islands of Oland and Langeness, the vote will be taken within a period not exceeding five weeks after the plebiscite shall have been held in the first section.

The result will be determined by communes (*Gemeinden*), in accordance with the majority of the votes cast in each commune (*Gemeinde*).

ARTICLE 110.

Pending a delimitation on the spot, a frontier line will be fixed by the Principal Allied and Associated Powers according to a line based on the result of the voting, and proposed by the International Commission, and taking into account the particular geographical and economic conditions of the localities in question.

From that time the Danish Government may effect the occupation of these territories with the Danish civil and military authorities, and the German Government may reinstate up to the said frontier line the German civil and military authorities whom it has evacuated.

Germany hereby renounces definitely in favour of the Principal Allied and

Associated Powers all rights of sovereignty over the territories situated to the north of the frontier line fixed in accordance with the above provisions. The Principal Allied and Associated Powers will hand over the said territories to Denmark.

ARTICLE 111.

A Commission composed of seven members, five of whom shall be nominated by the Principal Allied and Associated Powers, one by Denmark, and one by Germany, shall be constituted within fifteen days from the date when the final result of the vote is known, to trace the frontier line on the spot.

The decisions of the Commission will be taken by a majority of votes and shall be binding on the parties concerned.

ARTICLE 112.

All the inhabitants of the territory which is returned to Denmark will acquire Danish nationality *ipso facto*, and will lose their German nationality.

Persons, however, who had become habitually resident in this territory after October 1, 1918, will not be able to acquire Danish nationality without permission from the Danish Government.

ARTICLE 113.

Within two years from the date on which the sovereignty over the whole or part of the territory of Schleswig subjected to the plebiscite is restored to Denmark:

Any person over 18 years of age, born in the territory restored to Denmark, not habitually resident in this region, and possessing German nationality, will be entitled to opt for Denmark;

Any person over 18 years of age habitually resident in the territory restored to Denmark will be entitled to opt for Germany.

Option by a husband will cover his wife and option by parents will cover their children less than 18 years of age.

Persons who have exercised the above right to opt must within the ensuing twelve months transfer their place of residence to the State in favour of which they have opted.

They will be entitled to retain the immovable property which they own in the territory of the other State in which they were habitually resident before opting. They may carry with them their movable property of every description. No export or import duties may be imposed upon them in connection with the removal of such property.

ARTICLE 114.

The proportion and nature of the financial or other obligations of Germany and Prussia which are to be assumed by Denmark will be fixed in accordance with Article 254 of Part IX (Financial Clauses) of the present Treaty.

Further stipulations will determine any other questions arising out of the transfer to Denmark of the whole or part of the territory of which she was deprived by the Treaty of October 30, 1864.

SECTION XIII.

HELIGOLAND.

ARTICLE 115.

The fortifications, military establishments, and harbours of the Islands of Heligoland and Dune shall be destroyed under the supervision of the Principal Allied Governments by German labour and at the expense of Germany within a period to be determined by the said Governments.

The term "harbours" shall include the north-east mole, the west wall, the outer and inner breakwaters and reclaimed land within them, and all naval and military works, fortifications and buildings, constructed or under construction, between lines connecting the following positions taken from the British Admiralty chart No. 126 of April 19, 1918.

- (a) lat. 54° 10' 49" N.; long. 7° 53' 39" E.;
- (b) — 54° 10' 35" N.; — 7° 54' 18" E.;
- (c) — 54° 10' 14" N.; — 7° 54' 00" E.;
- (d) — 54° 10' 17" N.; — 7° 53' 37" E.;
- (e) — 54° 10' 44" N.; — 7° 53' 26" E.

These fortifications, military establishments and harbours shall not be reconstructed nor shall any similar works be constructed in future.

SECTION XIV.

RUSSIA AND RUSSIAN STATES

ARTICLE 116.

Germany acknowledges and agrees to respect as permanent and inalienable the independence of all the territories which were part of the former Russian Empire on August 1, 1914.

In accordance with the provisions of Article 259 of Part IX (Financial Clauses) and Article 292 of Part X (Economic Clauses) Germany accepts definitely the abrogation of the Brest-Litovsk Treaties and of all other treaties, conventions and agreements entered into by her with the Maximalist Government in Russia.

The Allied and Associated Powers formally reserve the rights of Russia to obtain from Germany restitution and reparation based on the principles of the present Treaty.

ARTICLE 117.

Germany undertakes to recognize the full force of all treaties or agreements which may be entered into by the Allied and Associated Powers with States now existing or coming into existence in future in the whole or part of the former Empire of Russia as it existed on August 1, 1914, and to recognize the frontiers of any such States as determined therein.

PART IV.

GERMAN RIGHTS AND INTERESTS OUTSIDE GERMANY.

ARTICLE 118.

In territory outside her European frontiers as fixed by the present Treaty, Germany renounces all rights, titles and privileges whatever in or over territory which belonged to her or to her allies, and all rights, titles and privileges whatever their origin which she held as against the Allied and Associated Powers.

Germany hereby undertakes to recognize and to conform to the measures which may be taken now or in the future by the Principal Allied and Associated Powers, in agreement where necessary with third Powers, in order to carry the above stipulation into effect.

In particular Germany declares her acceptance of the following Articles relating to certain special subjects.

SECTION I.

GERMAN COLONIES.

ARTICLE 119.


Germany renounces in favour of the Principal Allied and Associated Powers all her rights and titles over her oversea possessions.

ARTICLE 120.

All movable and immovable property in such territories belonging to the German Empire or to any German State shall pass to the Government exercising authority over such territories, on the terms laid down in Article 257 of Part IX (Financial Clauses) of the present Treaty. The decision of the local courts in any dispute as to the nature of such property shall be final.

ARTICLE 121.

The provisions of Sections I and IV of Part X (Economic Clauses) of the present Treaty shall apply in the case of these territories whatever be the form of Government adopted for them.



ARTICLE 122.

The Government exercising authority over such territories may make such provisions as it thinks fit with reference to the repatriation from them of German nationals and to the conditions upon which German subjects of European origin shall, or shall not, be allowed to reside, hold property, trade or exercise a profession in them.

ARTICLE 123.

The provisions of Article 260 of Part IX (Financial Clauses) of the present Treaty shall apply in the case of all agreements concluded with German nationals for the construction or exploitation of public works in the German oversea possessions, as well as any sub-concessions or contracts resulting therefrom which may have been made to or with such nationals.

ARTICLE 124.

Germany hereby undertakes to pay, in accordance with the estimate to be presented by the French Government and approved by the Reparation Commission, reparation for damage suffered by French nationals in the Cameroons or the frontier zone by reason of the acts of the German civil and military authorities and of German private individuals during the period from January 1, 1900, to August 1, 1914.

ARTICLE 125.

Germany renounces all rights under the Conventions and Agreements with France of November 4, 1911, and September 28, 1912, relating to Equatorial Africa. She undertakes to pay to the French Government, in accordance with the estimate to be presented by that Government and approved by the Reparation Commission, all the deposits, credits, advances, etc., effected by virtue of these instruments in favour of Germany.

ARTICLE 126.

Germany undertakes to accept and observe the agreements made or to be made by the Allied and Associated Powers or some of them with any other Power with regard to the trade in arms and spirits, and to the matters dealt with in the General Act of Berlin of February 26, 1885, the General Act of Brussels of July 2, 1890, and the conventions completing or modifying the same.

ARTICLE 127.

The native inhabitants of the former German oversea possessions shall be entitled to the diplomatic protection of the Governments exercising authority over those territories.

SECTION II.

CHINA.

ARTICLE 128.

Germany renounces in favour of China all benefits and privileges resulting from the provisions of the final Protocol signed at Peking on September 7, 1901, and from all annexes, notes and documents supplementary thereto. She likewise renounces in favour of China any claim to indemnities accruing thereunder subsequent to March 14, 1917.

ARTICLE 129.

From the coming into force of the present Treaty the High Contracting Parties shall apply, in so far as concerns them respectively:

(1) The Arrangement of August 29, 1902, regarding the new Chinese customs tariff;

(2) The Arrangement of September 27, 1905, regarding Whang-Poo, and the provisional supplementary Arrangement of April 4, 1912.

China, however, will no longer be bound to grant to Germany the advantages or privileges which she allowed Germany under these Arrangements.

ARTICLE 130.

Subject to the provisions of Section VIII of this Part, Germany cedes to China all the buildings, wharves and pontoons, barracks, forts, arms and munitions of war, vessels of all kinds, wireless telegraphy installations and other public property belonging to the German Government, which are situated or may be in the German Concessions at Tientsin and Hankow or elsewhere in Chinese territory.

It is understood, however, that premises used as diplomatic or consular residences or offices are not included in the above cession, and, furthermore, that no steps shall be taken by the Chinese Government to dispose of the German public and private property situated within the so-called Legation Quarter at Peking without the consent of the Diplomatic Representatives of the Powers which, on the coming into force of the present Treaty, remain Parties to the Final Protocol of September 7, 1901.

ARTICLE 131.

Germany undertakes to restore to China within twelve months from the coming into force of the present Treaty all the astronomical instruments which her troops in 1900-1901 carried away from China, and to defray all expenses which may be incurred in effecting such restoration, including the expenses of dismounting, packing, transporting, insurance and installation in Peking.

ARTICLE 132.

Germany agrees to the abrogation of the leases from the Chinese Government under which the German Concessions at Hankow and Tientsin are now held.

China, restored to the full exercise of her sovereign rights in the above areas, declares her intention of opening them to international residence and trade. She further declares that the abrogation of the leases under which these concessions are now held shall not affect the property rights of nationals of Allied and Associated Powers who are holders of lots in these concessions.

ARTICLE 133.

Germany waives all claims against the Chinese Government or against any Allied or Associated Government arising out of the internment of German nationals in China and their repatriation. She equally renounces all claims arising out of the capture and condemnation of German ships in China, or the liquidation, sequestration or control of German properties, rights and interests in that country since August 14, 1917. This provision, however, shall not affect the rights of the parties interested in the proceeds of any such liquidation, which shall be governed by the provisions of Part X (Economic Clauses) of the present Treaty.

ARTICLE 134.

Germany renounces in favour of the Government of His Britannic Majesty the German State property in the British Concession at Shameen at Canton. She renounces in favour of the French and Chinese Governments conjointly the property of the German school situated in the French Concession at Shanghai.

SECTION III.

SIAM.

ARTICLE 135.

Germany recognises that all treaties, conventions and agreements between her and Siam, and all rights, title and privileges derived therefrom, including all rights of extraterritorial jurisdiction, terminated as from July 22, 1917.

ARTICLE 136.

All goods and property in Siam belonging to the German Empire or to any German State, with the exception of premises used as diplomatic or consular residences or offices, pass *ipso facto* and without compensation to the Siamese Government.

The goods, property and private rights of German nationals in Siam shall be dealt with in accordance with the provisions of Part X (Economic Clauses) of the present Treaty.

ARTICLE 137.

Germany waives all claims against the Siamese Government on behalf of herself or her nationals arising out of the seizure or condemnation of German ships, the liquidation of German property, or the internment of German nationals in Siam. This provision shall not affect the rights of the parties interested in the proceeds of any such liquidation, which shall be governed by the provisions of Part X (Economic Clauses) of the present Treaty.

SECTION IV.

LIBERIA.

ARTICLE 138.

Germany renounces all rights and privileges arising from the arrangements of 1911 and 1912 regarding Liberia, and particularly the right to nominate a German Receiver of Customs in Liberia.

She further renounces all claim to participate in any measures whatsoever which may be adopted for the rehabilitation of Liberia.

ARTICLE 139.

Germany recognizes that all treaties and arrangements between her and Liberia terminated as from August 4, 1917.

ARTICLE 140.

The property, rights and interests of Germans in Liberia shall be dealt with in accordance with Part X (Economic Clauses) of the present Treaty.

SECTION V.

MOROCCO.

ARTICLE 141.

Germany renounces all rights, titles and privileges conferred on her by the General Act of Algeciras of April 7, 1906, and by the Franco-German Agreements of February 9, 1909, and November 4, 1911. All treaties, agreements, arrangements and contracts concluded by her with the Sherifian Empire are regarded as abrogated as from August 3, 1914.

In no case can Germany take advantage of these instruments and she undertakes not to intervene in any way in negotiations relating to Morocco which may take place between France and the other Powers.

ARTICLE 142.

Germany having recognized the French Protectorate in Morocco, hereby

accepts all the consequences of its establishment, and she renounces the régime of the capitulations therein.

This renunciation shall take effect as from August 3, 1914.

ARTICLE 143.

The Sherifian Government shall have complete liberty of action in regulating the status of German nationals in Morocco and the conditions in which they may establish themselves there.

German protected persons, semsars and "associés agricoles" shall be considered as having ceased, as from August 3, 1914, to enjoy the privileges attached to their status and shall be subject to the ordinary law.

ARTICLE 144.

All property and possessions in the Sherifian Empire of the German Empire and the German States pass to the Maghzen without payment.

For this purpose, the property and possessions of the German Empire and States shall be deemed to include all the property of the Crown, the Empire or the States, and the private property of the former German Emperor and other Royal personages.

All movable and immovable property in the Sherifian Empire belonging to German nationals shall be dealt with in accordance with Sections III and IV of Part X (Economic Clauses) of the present Treaty.

Mining rights which may be recognised as belonging to German nationals by the Court of Arbitration set up under the Moroccan Mining Regulations shall form the subject of a valuation, which the arbitrators shall be requested to make, and these rights shall then be treated in the same way as property in Morocco belonging to German nationals.

ARTICLE 145.

The German Government shall ensure the transfer to a person nominated by the French Government of the shares representing Germany's portion of the capital of the State Bank of Morocco. The value of these shares as assessed by the Reparation Commission, shall be paid to the Reparation Commission for the credit of Germany on account of the sums due for reparation. The German Government shall be responsible for indemnifying its nationals so dispossessed.

This transfer will take place without prejudice to the repayment of debts which German nationals may have contracted towards the State Bank of Morocco.

ARTICLE 146.

Moroccan goods entering Germany shall enjoy the treatment accorded to French goods.

SECTION VI.

EGYPT.

ARTICLE 147.

Germany declares that she recognises the Protectorate proclaimed over Egypt by Great Britain on December 18, 1914, and that she renounces the régime of the Capitulations in Egypt.

This renunciation shall take effect as from August 4, 1914.

ARTICLE 148.

All treaties, agreements, arrangements and contracts concluded by Germany with Egypt are regarded as abrogated as from August 4, 1914.

In no case can Germany avail herself of these instruments and she undertakes not to intervene in any way in negotiations relating to Egypt which may take place between Great Britain and the other Powers.

ARTICLE 149.

Until an Egyptian law of judicial organization establishing courts with universal jurisdiction comes into force, provision shall be made, by means of decrees issued by His Highness the Sultan, for the exercise of jurisdiction over German nationals and property by the British Consular Tribunals.

ARTICLE 150.

The Egyptian Government shall have complete liberty of action in regulating the status of German nationals and the conditions under which they may establish themselves in Egypt.

ARTICLE 151.

Germany consents to the abrogation of the decree issued by His Highness the Khedive on November 28, 1904, relating to the Commission of the Egyptian Public Debt, or to such changes as the Egyptian Government may think it desirable to make therein.

ARTICLE 152.

Germany consents, in so far as she is concerned, to the transfer to His Britannic Majesty's Government of the powers conferred on His Imperial Majesty the Sultan by the Convention signed at Constantinople on October 29, 1888, relating to the free navigation of the Suez Canal.

She renounces all participation in the Sanitary, Maritime, and Quarantine Board of Egypt and consents, in so far as she is concerned, to the transfer to the Egyptian Authorities of the powers of that Board.

ARTICLE 153.

All property and possessions in Egypt of the German Empire and the German States pass to the Egyptian Government without payment.

For this purpose, the property and possessions of the German Empire and States shall be deemed to include all the property of the Crown, the Empire or the State, and the private property of the former German Emperor and other Royal personages.

All movable and immovable property in Egypt belonging to German nationals shall be dealt with in accordance with Sections III and IV of Part X (Economic Clauses) of the present Treaty.

ARTICLE 154.

Egyptian goods entering Germany shall enjoy the treatment accorded to British goods.

SECTION VII.

TURKEY AND BULGARIA.

ARTICLE 155.

Germany undertakes to recognise and accept all arrangements which the Allied and Associated Powers may make with Turkey and Bulgaria with reference to any rights, interests and privileges whatever which might be claimed by Germany or her nationals in Turkey and Bulgaria and which are not dealt with in the provisions of the present Treaty.

SECTION VIII.

SHANTUNG.

ARTICLE 156.

Germany renounces, in favour of Japan, all her rights, title and privileges—particularly those concerning the territory of Kiaochow, railways, mines and submarine cables—which she acquired in virtue of the Treaty concluded by her with China on March 6, 1898, and of all other arrangements relative to the Province of Shantung.

All German rights in the Tsingtao-Tsinanfu Railway, including its branch lines, together with its subsidiary property of all kinds, stations, shops, fixed and rolling stock, mines, plant and material for the exploitation of the mines, are and remain acquired by Japan, together with all rights and privileges attaching thereto.

The German State submarine cables from Tsingtao to Shanghai and from Tsingtao to Chefoo, with all the rights, privileges and properties attaching thereto, are similarly acquired by Japan, free and clear of all charges and encumbrances.

ARTICLE 157.

The movable and immovable property owned by the German State in the territory of Kiaochow, as well as all the rights which Germany might claim in consequence of the works or improvements made or of the expenses incurred by her, directly or indirectly, in connection with this territory, are and remain acquired by Japan, free and clear of all charges and encumbrances.

ARTICLE 158.

Germany shall hand over to Japan within three months from the coming into force of the present Treaty the archives, registers, plans, title-deeds and documents of every kind, wherever they may be, relating to the administration, whether civil, military, financial, judicial or other, of the territory of Kiaochow.

Within the same period Germany shall give particulars to Japan of all treaties, arrangements or agreements relating to the rights, title or privileges referred to in the two preceding Articles.

PART V.

MILITARY, NAVAL AND AIR CLAUSES.

In order to render possible the initiation of a general limitation of the armaments of all nations, Germany undertakes strictly to observe the military, naval and air clauses which follow.

SECTION I.

MILITARY CLAUSES.

CHAPTER I.

EFFECTIVES AND CADRES OF THE GERMAN ARMY.

ARTICLE 159.

The German military forces shall be demobilized and reduced as prescribed hereinafter.

ARTICLE 160.

(1) By a date which must not be later than March 31, 1920, the German Army must not comprise more than seven divisions of infantry and three divisions of cavalry.

After that date the total number of effectives in the Army of the States constituting Germany must not exceed one hundred thousand men, including

officers and establishments of depots. The Army shall be devoted exclusively to the maintenance of order within the territory and to the control of the frontiers.

The total effective strength of officers, including the personnel of staffs, whatever their composition, must not exceed four thousand.

(2) Divisions and Army Corps headquarters staffs shall be organised in accordance with Table No. 1 annexed to this Section.

The number and strengths of the units of infantry, artillery, engineers, technical services and troops laid down in the aforesaid Table constitute maxima which must not be exceeded.

The following units may each have their own depot:

- An Infantry regiment;
- A Cavalry regiment;
- A regiment of Field Artillery;
- A battalion of Pioneers.

(3) The divisions must not be grouped under more than two army corps headquarters staffs.

The maintenance or formation of forces differently grouped or of other organisation for the command of troops or for preparation for war is forbidden.

The Great German General Staff and all similar organisations shall be dissolved and may not be reconstituted in any form.

The officers, or persons in the position of officers, in the Ministries of War in the different States in Germany and in the Administrations attached to them, must not exceed three hundred in number and are included in the maximum strength of four thousand laid down in the third sub-paragraph of paragraph (1) of this Article.

ARTICLE 161.

Army administrative services consisting of civilian personnel not included in the number of effectives prescribed by the present Treaty will have such personnel reduced in each class to one-tenth of that laid down in the Budget of 1913.

ARTICLE 162.

The number of employees or officials of the German States, such as customs officers, forest guards and coastguards, shall not exceed that of the employees or officials functioning in these capacities in 1913.

The number of gendarmes and employees or officials of the local or municipal police may only be increased to an extent corresponding to the increase of population since 1913 in the districts or municipalities in which they are employed.

These employees and officials may not be assembled for military training.

ARTICLE 163.

The reduction of the strength of the German military forces as provided for in Article 160 may be effected gradually in the following manner:

Within three months from the coming into force of the present Treaty the total number of effectives must be reduced to 200,000 and the number of units must not exceed twice the number of those laid down in Article 160.

At the expiration of this period, and at the end of each subsequent period of three months, a Conference of military experts of the Principal Allied and Associated Powers will fix the reductions to be made in the ensuing three months, so that by March 31, 1920, at the latest the total number of German effectives does not exceed the maximum number of 100,000 men laid down in Article 160. In these successive reductions the same ratio between the number of officers and of men, and between the various kinds of units, shall be maintained as is laid down in that Article.

CHAPTER II.

ARMAMENT, MUNITIONS AND MATERIAL.

ARTICLE 164.

Up till the time at which Germany is admitted as a member of the League of Nations the German Army must not possess an armament greater than the amounts fixed in Table No. II annexed to this Section, with the exception of an optional increase not exceeding one-twentyfifth part for small arms and one-fiftieth part for guns, which shall be exclusively used to provide for such eventual replacements as may be necessary.

Germany agrees that after she has become a member of the League of Nations the armaments fixed in the said Table shall remain in force until they are modified by the Council of the League. Furthermore she hereby agrees strictly to observe the decisions of the Council of the League on this subject.

ARTICLE 165.

The maximum number of guns, machine guns, trench-mortars, rifles and the amount of ammunition and equipment which Germany is allowed to maintain during the period between the coming into force of the present Treaty and the date of March 31, 1920, referred to in Article 160, shall bear the same proportion to the amount authorized in Table No. III annexed to this Section as the strength of the German Army as reduced from time to time in accordance with Article 163 bears to the strength permitted under Article 160.

ARTICLE 166.

At the date of March 31, 1920, the stock of munitions which the German Army may have at its disposal shall not exceed the amounts fixed in Table No. III annexed to this Section.

Within the same period the German Government will store these stocks at points to be notified to the Governments of the Principal Allied and Associated Powers. The German Government is forbidden to establish any other stocks, depots or reserves of munitions.

ARTICLE 167.

The number and calibre of the guns constituting at the date of the coming into force of the present Treaty the armament of the fortified works, fortresses, and any land or coast forts which Germany is allowed to retain must be notified immediately by the German Government to the Governments of the Principal Allied and Associated Powers, and will constitute maximum amounts which may not be exceeded.

Within two months from the coming into force of the present Treaty, the maximum stock of ammunition for these guns will be reduced to, and maintained at, the following uniform rates:—fifteen hundred rounds per piece for those the calibre of which is 10.5 cm. and under: five hundred rounds per piece for those of higher calibre.

ARTICLE 168.

The manufacture of arms, munitions, or any war material, shall only be carried out in factories or works the location of which shall be communicated to and approved by the Governments of the Principal Allied and Associated Powers, and the number of which they retain the right to restrict.

Within three months from the coming into force of the present Treaty, all other establishments for the manufacture, preparation, storage or design of arms, munitions, or any war material whatever shall be closed down. The same applies to all arsenals except those used as depots for the authorised stocks of munitions. Within the same period the personnel of these arsenals will be dismissed.

ARTICLE 169.

Within two months from the coming into force of the present Treaty German arms, munitions and war material, including anti-aircraft material, existing in Germany in excess of the quantities allowed, must be surrendered to the Governments of the Principal Allied and Associated Powers to be destroyed or rendered useless. This will also apply to any special plant intended for the manufacture of military material, except such as may be recognised as necessary for equipping the authorised strength of the German Army.

The surrender in question will be effected at such points in German territory as may be selected by the said Governments.

Within the same period arms, munitions and war material, including anti-aircraft material, of origin other than German, in whatever state they may be, will be delivered to the said Governments, who will decide as to their disposal.

Arms and munitions which on account of the successive reductions in the strength of the German army become in excess of the amounts authorized by Tables II and III annexed to this Section must be handed over in the manner laid down above within such periods as may be decided by the Conferences referred to in Article 163.

ARTICLE 170.

Importation into Germany of arms, munitions and war material of every kind shall be strictly prohibited.

The same applies to the manufacture for, and export to, foreign countries of arms, munitions and war material of every kind.

ARTICLE 171.

The use of asphyxiating, poisonous or other gases and all analogous liquids, materials or devices being prohibited, their manufacture and importation are strictly forbidden in Germany.

The same applies to materials specially intended for the manufacture, storage and use of the said products or devices.

The manufacture and the importation into Germany of armoured cars, tanks and all similar constructions suitable for use in war are also prohibited.

ARTICLE 172.

Within a period of three months from the coming into force of the present Treaty, the German Government will disclose to the Governments of the Principal Allied and Associated Powers the nature and mode of manufacture of all explosives, toxic substances or other like chemical preparations used by them in the war or prepared by them for the purpose of being so used.

CHAPTER III.

RECRUITING AND MILITARY TRAINING.

ARTICLE 173.

Universal compulsory military service shall be abolished in Germany.

The German Army may only be constituted and recruited by means of voluntary enlistment.

ARTICLE 174.

The period of enlistment for non-commissioned officers and privates must be twelve consecutive years.

The number of men discharged for any reason before the expiration of their term of enlistment must not exceed in any year five per cent. of the total effectives fixed by the second sub-paragraph of paragraph (1) of Article 160 of the present Treaty.

ARTICLE 175.

The officers who are retained in the Army must undertake the obligation to serve in it up to the age of forty-five years at least.

Officers newly appointed must undertake to serve on the active list for twenty-five consecutive years at least.

Officers who have previously belonged to any formations whatever of the Army, and who are not retained in the units allowed to be maintained, must not take part in any military exercise whether theoretical or practical, and will not be under any military obligations whatever.

The number of officers discharged for any reason before the expiration of their term of service must not exceed in any year five per cent. of the total effectives of officers provided for in the third sub-paragraph (1) of Article 160 of the present Treaty.

ARTICLE 176.

On the expiration of two months from the coming into force of the present Treaty there must only exist in Germany the number of military schools which is absolutely indispensable for the recruitment of the officers of the units allowed. These schools will be exclusively intended for the recruitment of officers of each arm, in the proportion of one school per arm.

The number of students admitted to attend the courses of the said schools will be strictly in proportion to the vacancies to be filled in the cadres of officers. The students and the cadres will be reckoned in the effectives fixed by the second and third sub-paragraphs of paragraph (1) of Article 160 of the present Treaty.

Consequently, and during the period fixed above, all military academies or similar institutions in Germany, as well as the different military schools for officers, student officers (*Aspiranten*), cadets, non-commissioned officers or student non-commissioned officers (*Aspiranten*), other than the schools above provided for, will be abolished.

ARTICLE 177.

Educational establishments, the universities, societies of discharged soldiers, shooting or touring clubs and, generally speaking, associations of every description, whatever be the age of their members, must not occupy themselves with any military matters.

In particular they will be forbidden to instruct or exercise their members, or to allow them to be instructed or exercised, in the profession or use of arms.

These societies, associations, educational establishments and universities must have no connection with the Ministries of War or any other military authority.

ARTICLE 178.

All measures of mobilization or appertaining to mobilization are forbidden.

In no case must formations, administrative services or General Staffs include supplementary cadres.

ARTICLE 179.

Germany agrees, from the coming into force of the present Treaty, not to accredit nor to send to any foreign country any military, naval or air mission, nor to allow any such mission to leave her territory, and Germany

further agrees to take appropriate measures to prevent German nationals from leaving her territory to become enrolled in the Army, Navy or Air service of any foreign Power, or to be attached to such Army, Navy or Air service for the purpose of assisting in the military, naval or air training thereof, or otherwise for the purpose of giving military, naval or air instruction in any foreign country.

The Allied and Associated Powers agree, so far as they are concerned, from the coming into force of the present Treaty, not to enrol in nor to attach to their armies or naval or air forces any German national for the purpose of assisting in the military training of such armies or naval or air forces, or otherwise to employ any such German national as military, naval or aeronautic instructor.

The present provision does not, however, affect the right of France to recruit for the Foreign Legion in accordance with French military laws and regulations.

CHAPTER IV.

FORTIFICATIONS.

ARTICLE 180.

All fortified works, fortresses and field works situated in German territory to the west of a line drawn fifty kilometres to the east of the Rhine shall be disarmed and dismantled.

Within a period of two months from the coming into force of the present Treaty such of the above fortified works, fortresses and field works as are situated in territory not occupied by Allied and Associated troops shall be disarmed, and within a further period of four months they shall be dismantled. Those which are situated in territory occupied by Allied and Associated troops shall be disarmed and dismantled within such periods as may be fixed by the Allied High Command.

The construction of any new fortification, whatever its nature and importance, is forbidden in the zone referred to in the first paragraph above.

The system of fortified works of the southern and eastern frontiers of Germany shall be maintained in its existing state.

TABLE NO. I.

STATE AND ESTABLISHMENT OF ARMY CORPS HEADQUARTERS STAFFS AND OF INFANTRY AND CAVALRY DIVISIONS.

These tabular statements do not form a fixed establishment to be imposed on Germany, but the figures contained in them (number of units and strengths) represent maximum figures, which should not in any case be exceeded.

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I.—ARMY CORPS HEADQUARTERS STAFFS.

Unit.	Maximum No. authorised.	Maximum strengths of each unit.	
		Officers.	N.C.O.'s and Men.
Army Corps Headquarters Staff.....	2	30	150
Total for Headquarters Staffs.....		60	300

II. ESTABLISHMENT OF AN INFANTRY DIVISION.

Unit.	Maximum No. of such units in a single division.	Maximum strengths of each unit.	
		Officers.	N.C.O.'s and Men.
Headquarters of an infantry division.....	1	25	70
Headquarters of divisional infantry.....	1	4	30
Headquarters of divisional artillery.....	1	4	30
Regiment of infantry.....	3	70	2,300
(Each regiment comprises 3 battalions of infantry. Each battalion comprises 3 companies of infantry and 1 machine-gun company.)			
Trench mortar company.....	3	6	150
Divisional squadron.....	1	6	150
Field artillery regiment.....	1	85	1,300
(Each regiment comprises 3 groups of artillery. Each group comprises 3 batteries.)			
Pioneer battalion.....	1	12	400
(This battalion comprises 2 companies of pioneers, 1 pontoon detachment, 1 searchlight section.)			
Signal detachment.....	1	12	300
(This detachment comprises 1 telephone detachment, 1 listening section, 1 carrier pigeon section.)			
Divisional medical service.....	1	20	400
Parks and convoys.....		14	800
Total for infantry division.....		410	10,830

III. ESTABLISHMENT OF A CAVALRY DIVISION.

Unit.	Maximum No. of such units in a single division.	Maximum strengths of each unit.	
		Officers.	N.C.O.'s and Men.
Headquarters of a cavalry division.....	1	15	50
Cavalry regiment.....	6	40	800
(Each regiment comprises 4 squadrons.)			
Horse artillery group (3 batteries).....	1	20	400
Total for cavalry division.....		275	5,250

TABLE No. II.

TABULAR STATEMENT OF ARMAMENT ESTABLISHMENT FOR A MAXIMUM OF SEVEN INFANTRY DIVISIONS, THREE CAVALRY DIVISIONS, AND TWO ARMY CORPS HEAD-QUARTERS STAFFS.

Material.	Infantry division.	For 7 infantry divisions.	Cavalry division.	For 3 cavalry divisions.	Two army corps head-quarters staffs.	Total of columns 2, 4 and 5.
	(1)	(2)	(3)	(4)	(5)	(6)
Rifles	12,000	84,000	.....	.....	This establishment must be drawn from the increased armaments of the divisional infantry.	84,000
Carbines .....	.....	.....	6,000	18,000		18,000
Heavy machine guns	108	756	12	36		752
Light machine guns ..	162	1,134	.....	.....		1,134
Medium trench mortars	9	63	.....	.....		63
Light trench mortars ..	27	189	.....	.....		189
7.7-cm. guns	24	168	12	36		204
10.5-cm. howitzers ..	12	84	.....	.....		84

TABLE No. III.

MAXIMUM STOCKS AUTHORISED.

Material.	Maximum number of Arms authorised.	Establishment, per unit.	Maximum totals
		<i>Rounds.</i>	<i>Rounds.</i>
Rifles	84,000	} 400	40,800,000
Carbines	18,000		
Heavy machine guns	792	} 8,000	15,408,000
Light machine guns	1,134		
Medium trench mortars	63	400	25,200
Light trench mortars	189	800	151,200
Field artillery:			
7.7 cm. guns	204	1,000	204,000
10.5 cm. howitzers	84	800	67,200

SECTION II.

NAVAL CLAUSES.

ARTICLE 181.

After the expiration of a period of two months from the coming into force of the present Treaty the German naval forces in commission must not exceed:

- 6 battleships of the *Deutschland* or *Lothringen* type,
- 6 light cruisers,
- 12 destroyers,
- 12 torpedo boats,

or an equal number of ships constructed to replace them as provided in Article 190.

No submarines are to be included.

All other warships, except where there is provision to the contrary in the present Treaty, must be placed in reserve or devoted to commercial purposes.

ARTICLE 182.

Until the completion of the minesweeping prescribed by Article 193 Germany will keep in commission such number of minesweeping vessels as may be fixed by the Governments of the Principal Allied and Associated Powers.

ARTICLE 183.

After the expiration of a period of two months from the coming into force of the present Treaty the total personnel of the German Navy, including the manning of the fleet, coast defences, signal stations, administration and other land services, must not exceed fifteen thousand, including officers and men of all grades and corps.

The total strength of officers and warrant officers must not exceed fifteen hundred.

Within two months from the coming into force of the present Treaty the personnel in excess of the above strength shall be demobilized.

No naval or military corps or reserve force in connection with the Navy may be organised in Germany without being included in the above strength.

ARTICLE 184.

From the date of the coming into force of the present Treaty all the German surface warships which are not in German ports cease to belong to Germany, who renounces all rights over them.

Vessels which, in compliance with the Armistice of November 11, 1918, are now interned in the ports of the Allied and Associated Powers are declared to be finally surrendered.

Vessels which are now interned in neutral ports will be there surrendered to the Governments of the Principal Allied and Associated Powers. The German Government must address a notification to that effect to the neutral Powers on the coming into force of the present Treaty.

ARTICLE 185.

Within a period of two months from the coming into force of the present Treaty the German surface warships enumerated below will be surrendered to the Governments of the Principal Allied and Associated Powers in such Allied ports as the said Powers may direct.

These warships will have been disarmed as provided in Article XXIII of the Armistice of November 11, 1918. Nevertheless, they must have all their guns on board.

BATTLESHIPS.

<i>Oldenburg.</i>	<i>Posen.</i>
<i>Thuringen.</i>	<i>Westfalen.</i>
<i>Ostfriesland.</i>	<i>Rheinland.</i>
<i>Helgoland.</i>	<i>Nassau.</i>

LIGHT CRUISERS.

<i>Stettin.</i>	<i>Stralsund.</i>
<i>Danzig.</i>	<i>Augsburg.</i>
<i>München.</i>	<i>Kolberg.</i>
<i>Lübeck.</i>	<i>Stuttgart.</i>

and, in addition, forty-two modern destroyers and fifty modern torpedo boats, as chosen by the Governments of the Principal Allied and Associated Powers.

ARTICLE 186.

On the coming into force of the present Treaty the German Government must undertake, under the supervision of the Governments of the Principal Allied and Associated Powers, the breaking-up of all the German surface warships now under construction.

ARTICLE 187.

The German auxiliary cruisers and fleet auxiliaries enumerated below will be disarmed and treated as merchant ships.

INTERRED IN NEUTRAL COUNTRIES:

<i>Berlin.</i>	<i>Seydlitz.</i>
<i>Santa Fé.</i>	<i>Yorck.</i>

IN GERMANY:

<i>Ammon.</i>	<i>Fürst Bülow.</i>
<i>Answald.</i>	<i>Gertrud.</i>
<i>Bosnia.</i>	<i>Kigoma.</i>
<i>Cordoba.</i>	<i>Rugia.</i>
<i>Cassel.</i>	<i>Santa Elena.</i>
<i>Dania.</i>	<i>Schleswig.</i>
<i>Rio Negro.</i>	<i>Mowe.</i>
<i>Rio Pardo.</i>	<i>Sierra Ventana.</i>
<i>Santa Cruz.</i>	<i>Chemnitz.</i>
<i>Schwaben.</i>	<i>Emil George Von Strauss.</i>
<i>Solingen.</i>	<i>Habsburg.</i>
<i>Steigerwald.</i>	<i>Meteor.</i>
<i>Franken.</i>	<i>Waltraute.</i>
<i>Gundomar.</i>	<i>Scharnhorst.</i>

ARTICLE 188.

On the expiration of one month from the coming into force of the present Treaty all German submarines, submarine salvage vessels and docks for submarines, including the tubular dock, must have been handed over to the Governments of the Principal Allied and Associated Powers.

Such of these submarines, vessels and docks as are considered by the said Governments to be fit to proceed under their own power or to be towed shall be taken by the German Government into such Allied ports as have been indicated.

The remainder, and also those in course of construction, shall be broken up entirely by the German Government under the supervision of the said Governments. The breaking-up must be completed within three months at the most after the coming into force of the present Treaty.

ARTICLE 189.

Articles, machinery and material arising from the breaking up of German warships of all kinds, whether surface vessels or submarines, may not be used except for purely industrial or commercial purposes.

They may not be sold or disposed of to foreign countries.

ARTICLE 190.

Germany is forbidden to construct or acquire any warships other than those intended to replace the units in commission provided for in Article 181 of the present Treaty.

The warships intended for replacement purposes as above shall not exceed the following displacement:

Armoured ships	10,000 tons,
Light cruisers	6,000 tons,
Destroyers	800 tons,
Torpedo boats	200 tons.

Except where a ship has been lost, units of the different classes shall only be replaced at the end of a period of twenty years in the case of battleships and cruisers, and fifteen years in the case of destroyers and torpedo boats, counting from the launching of the ship.

ARTICLE 191.

The construction or acquisition of any submarine, even for commercial purposes, shall be forbidden in Germany.

ARTICLE 192.

The warships in commission of the German fleet must have on board or

in reserve only the allowance of arms, munitions and war material fixed by the Principal Allied and Associated Powers.

Within a month from the fixing of the quantities as above, arms, munitions and war material of all kinds, including mines and torpedoes, now in the hands of the German Government and in excess of the said quantities, shall be surrendered to the Governments of the said Powers at places to be indicated by them. Such arms, munitions and war material will be destroyed or rendered useless.

All other stocks, depots or reserves of arms, munitions or naval war material of all kinds are forbidden.

The manufacture of these articles in German territory for, and their export to, foreign countries shall be forbidden.

ARTICLE 193.

On the coming into force of the present Treaty Germany will forthwith sweep up the mines in the following areas in the North Sea to the eastward of longitude 4° 00' E. of Greenwich:

(1) Between parallels of latitude 53° 00' N. and 59° 00' N.; (2) To the northward of latitude 60° 30' N.

Germany must keep these areas free from mines.

Germany must also sweep and keep free from mines such areas in the Baltic as may ultimately be notified by the Governments of the Principal Allied and Associated Powers.

ARTICLE 194.

The personnel of the German Navy shall be recruited entirely by voluntary engagements entered into for a minimum period of twenty-five consecutive years for officers and warrant officers; twelve consecutive years for petty officers and men.

The number engaged to replace those discharged for any reason before the expiration of their term of service must not exceed five per cent. per annum of the totals laid down in this Section (Article 183).

The personnel discharged from the Navy must not receive any kind of naval or military training or undertake any further service in the Navy or Army.

Officers belonging to the German Navy and not demobilised must engage to serve till the age of forty-five, unless discharged for sufficient reasons.

No officer or man of the German mercantile marine shall receive any training in the Navy.

ARTICLE 195.

In order to ensure free passage into the Baltic to all nations, Germany shall not erect any fortifications in the area comprised between latitudes 55° 27' N. and 54° 00' N. and longitudes 9° 00' E. and 16° 00' E. of the meridian of Greenwich nor instal any guns commanding the maritime routes

between the North Sea and the Baltic. The fortifications now existing in this area shall be demolished and the guns removed under the supervisions of the Allied Governments and in periods to be fixed by them.

The German Government shall place at the disposal of the Governments of the Principal Allied and Associated Powers all hydrographical information now in its possession concerning the channels and adjoining waters between the Baltic and the North Sea.

ARTICLE 196.

All fortified works and fortifications, other than those mentioned in Section XIII (Heligoland) of Part III (Political Clauses for Europe) and in Article 195, now established within fifty kilometres of the German coast or on German islands off that coast shall be considered as of a defensive nature and may remain in their existing condition.

No new fortifications shall be constructed within these limits. The armament of these defences shall not exceed, as regards the number and calibre of guns, those in position at the date of the coming into force of the present Treaty. The German Government shall communicate forthwith particulars thereof to all the European Governments.

On the expiration of a period of two months from the coming into force of the present Treaty the stocks of ammunition for these guns shall be reduced to and maintained at a maximum figure of fifteen hundred rounds per piece for calibres of 4.1-inch and under, and five hundred rounds per piece for higher calibres.

ARTICLE 197.

During the three months following the coming into force of the present Treaty the German high-power wireless telegraphy stations at Nauen, Hanover and Berlin shall not be used for the transmission of messages concerning naval, military or political questions of interest to Germany or any State which has been allied to Germany in the war, without the assent of the Governments of the Principal Allied and Associated Powers. These stations may be used for commercial purposes, but only under the supervision of the said Governments, who will decide the wave-length to be used.

During the same period Germany shall not build any more high-power wireless telegraphy stations in her own territory or that of Austria, Hungary, Bulgaria or Turkey.

SECTION III.

AIR CLAUSES.

ARTICLE 198.

The armed forces of Germany must not include any military or naval air forces.

Germany may, during a period not extending beyond October 1, 1919, main-

tain a maximum number of one hundred seaplanes or flying boats, which shall be exclusively employed in searching for submarine mines, shall be furnished with the necessary equipment for this purpose, and shall in no case carry arms, munitions or bombs of any nature whatever.

In addition to the engines installed in the seaplanes or flying boats above mentioned, one spare engine may be provided for each engine of each of these craft.

No dirigible shall be kept.

ARTICLE 199.

Within two months from the coming into force of the present Treaty the personnel of air forces on the rolls of the German land and sea forces shall be demobilized. Up to October 1, 1919, however, Germany may keep and maintain a total number of one thousand men, including officers, for the whole of the cadres and personnel, flying and non-flying, of all formations and establishments.

ARTICLE 200.

Until the complete evacuation of German territory by the Allied and Associated troops, the aircraft of the Allied and Associated Powers shall enjoy in Germany freedom of passage through the air, freedom of transit and of landing.

ARTICLE 201.

During the six months following the coming into force of the present Treaty, the manufacture and importation of aircraft, parts of aircraft, engines for aircraft, and parts of engines for aircraft, shall be forbidden in all German territory.

ARTICLE 202.

On the coming into force of the present Treaty, all military and naval aeronautical material, except the machines mentioned in the second and third paragraphs of Article 198, must be delivered to the Governments of the Principal Allied and Associated Powers.

Delivery must be effected at such places as the said Governments may select, and must be completed within three months.

In particular, this material will include all items under the following heads which are or have been in use or were designed for warlike purposes:

Complete aeroplanes and seaplanes, as well as those being manufactured, repaired or assembled.

Dirigibles able to take the air, being manufactured, repaired or assembled.

Plant for the manufacture of hydrogen.

Dirigible sheds and shelters of every kind for aircraft.

Pending their delivery, dirigibles will, at the expense of Germany, be maintained inflated with hydrogen; the plant for the manufacture of hydrogen, as well as the sheds for dirigibles, may, at the discretion of the said Powers, be left to Germany until the time when the dirigibles are handed over.

Engines for aircraft.

Nacelles and fuselages.

Armament (guns, machine guns, light machine guns, bomb-dropping apparatus, torpedo-dropping apparatus, synchronization apparatus, aiming apparatus).

Munitions (cartridges, shells, bombs loaded or unloaded, stocks of explosives or of material for their manufacture).

Instruments for use on aircraft.

Wireless apparatus and photographic or cinematograph apparatus for use on aircraft.

Component parts of any of the items under the preceding heads.

The material referred to above shall not be removed without special permission from the said Governments.

SECTION IV.

INTER-ALLIED COMMISSIONS OF CONTROL.

ARTICLE 203.

All the military, naval and air clauses contained in the present Treaty, for the execution of which a time-limit is prescribed, shall be executed by Germany under the control of Inter-Allied Commissions specially appointed for this purpose by the Principal Allied and Associated Powers.

ARTICLE 204.

The Inter-Allied Commissions of Control will be specially charged with the duty of seeing to the complete execution of the delivery, destruction, demolition and rendering things useless to be carried out at the expense of the German Government in accordance with the present Treaty.

They will communicate to the German authorities the decisions which the Principal Allied and Associated Powers have reserved the right to take, or which the execution of the military, naval and air clauses may necessitate.

ARTICLE 205.

The Inter-Allied Commissions of Control may establish their organisations at the seat of the central German Government.

They shall be entitled as often as they think desirable to proceed to any point whatever in German territory, or to send sub-commissions, or to authorize one or more of their members to go, to any such point.

ARTICLE 206.

The German Government must give all necessary facilities for the accomplishment of their missions to the Inter-Allied Commissions of Control and to their members.

It shall attach a qualified representative to each Inter-Allied Commission of Control for the purpose of receiving the communications which the Commission may have to address to the German Government and of supplying or procuring for the Commission all information or documents which may be required.

The German Government must in all cases furnish at its own cost all labour and material required to effect the deliveries and the works of destruction, dismantling, demolition, and of rendering things useless, provided for in the present Treaty.

ARTICLE 207.

The upkeep and cost of the Commissions of Control and the expenses involved by their work shall be borne by Germany.

ARTICLE 208.

The Military Inter-Allied Commission of Control will represent the Governments of the Principal Allied and Associated Powers in dealing with the German Government in all matters concerning the execution of the military clauses.

In particular it will be its duty to receive from the German Government the notifications relating to the location of the stocks and depots of munitions, the armament of the fortified works, fortresses and forts which Germany is allowed to retain, and the location of the works or factories for the production of arms, munitions and war material and their operations.

It will take delivery of the arms, munitions and war material, will select the points where such delivery is to be effected, and will supervise the works of destruction, demolition, and of rendering things useless, which are to be carried out in accordance with the present Treaty.

The German Government must furnish to the Military Inter-Allied Commission of Control all such information and documents as the latter may deem necessary to ensure the complete execution of the military clauses, and in particular all legislative and administrative documents and regulations.

ARTICLE 209.

The Naval Inter-Allied Commission of Control will represent the Governments of the Principal Allied and Associated Powers in dealing with the German Government in all matters concerning the execution of the naval clauses.

In particular it will be its duty to proceed to the building yards and to supervise the breaking-up of the ships which are under construction there, to take delivery of all surface ships or submarines, salvage ships, docks and the tubular docks, and to supervise the destruction and breaking-up provided for.

The German Government must furnish to the Naval Inter-Allied Commission of Control all such information and documents as the Commission may

deem necessary to ensure the complete execution of the naval clauses, in particular the designs of the warships, the composition of their armaments, the details and models of the guns, munitions, torpedoes, mines, explosives, wireless telegraphic apparatus and, in general, everything relating to naval war material, as well as all legislative or administrative documents or regulations.

ARTICLE 210.

The Aeronautical Inter-Allied Commission of Control will represent the Governments of the Principal Allied and Associated Powers in dealing with the German Government in all matters concerning the execution of the air clauses.

In particular it will be its duty to make an inventory of the aeronautical material existing in German territory, to inspect aeroplane, balloon and motor manufactories, and factories producing arms, munitions and explosives capable of being used by aircraft, to visit all aerodromes, sheds, landing grounds, parks and depots, to authorize, where necessary, a removal of material and to take delivery of such material.

The German Government must furnish to the Aeronautical Inter-Allied Commission of Control all such information and legislative, administrative or other documents which the Commission may consider necessary to ensure the complete execution of the air clauses, and in particular a list of the personnel belonging to all the German Air Services, and of the existing material, as well as of that in process of manufacture or on order, and a list of all establishments working for aviation, of their positions, and of all sheds and landing grounds.

SECTION V.

GENERAL ARTICLES.

ARTICLE 211.

After the expiration of a period of three months from the coming into force of the present Treaty, the German laws must have been modified and shall be maintained by the German Government in conformity with this Part of the present Treaty.

Within the same period all the administrative or other measures relating to the execution of this Part of the Treaty must have been taken.

ARTICLE 212.

The following portions of the Armistice of November 11, 1918: Article VI, the first two and the sixth and seventh paragraphs of Article VII; Article IX; Clauses I, II and V of Annex n° 2, and the Protocol, dated April 4, 1919, supplementing the Armistice of November 11, 1918, remain in force so far as they are not inconsistent with the above stipulations.

ARTICLE 213.

So long as the present Treaty remains in force, Germany undertakes to give every facility for any investigation which the Council of the League of Nations, acting if need be by a majority vote, may consider necessary.

PART VI.

PRISONERS OF WAR AND GRAVES.

SECTION I.

PRISONERS OF WAR.

ARTICLE 214.

The repatriation of prisoners of war and interned civilians shall take place as soon as possible after the coming into force of the present Treaty and shall be carried out with the greatest rapidity.

ARTICLE 215.

The repatriation of German prisoners of war and interned civilians shall, in accordance with Article 214, be carried out by a Commission composed of representatives of the Allied and Associated Powers on the one part and of the German Government on the other part.

For each of the Allied and Associated Powers a Sub-Commission, composed exclusively of Representatives of the interested Power and of Delegates of the German Government, shall regulate the details of carrying into effect the repatriation of the prisoners of war.

ARTICLE 216.

From the time of their delivery into the hands of the German authorities the prisoners of war and interned civilians are to be returned without delay to their homes by the said authorities.

Those amongst them who before the war were habitually resident in territory occupied by the troops of the Allied and Associated Powers are likewise to be sent to their homes, subject to the consent and control of the military authorities of the Allied and Associated armies of occupation.

ARTICLE 217.

The whole cost of repatriation from the moment of starting shall be borne by the German Government, who shall also provide the land and sea transport and staff considered necessary by the Commission referred to in Article 215.

ARTICLE 218.

Prisoners of war and interned civilians awaiting disposal or undergoing sentence for offences against discipline shall be repatriated irrespective of the completion of their sentence or of the proceedings pending against them.

This stipulation shall not apply to prisoners of war and interned civilians punished for offences committed subsequent to May 1, 1919.

During the period pending their repatriation all prisoners of war and interned civilians shall remain subject to the existing regulations, more especially as regards work and discipline.

ARTICLE 219.

Prisoners of war and interned civilians who are awaiting disposal or undergoing sentence for offences other than those against discipline may be detained.

ARTICLE 220.

The German Government undertakes to admit to its territory without distinction all persons liable to repatriation.

Prisoners of war or other German nationals who do not desire to be repatriated may be excluded from repatriation; but the Allied and Associated Governments reserve to themselves the right either to repatriate them or to take them to a neutral country or to allow them to reside in their own territories.

The German Government undertakes not to institute any exceptional proceedings against these persons or their families nor to take any repressive or vexatious measures of any kind whatsoever against them on this account.

ARTICLE 221.

The Allied and Associated Governments reserve the right to make the repatriation of German prisoners of war or German nationals in their hands conditional upon the immediate notification and release by the German Government of any prisoners of war who are nationals of the Allied and Associated Powers and may still be in Germany.

ARTICLE 222.

Germany undertakes:

(1) To give every facility to Commissions to enquire into the cases of those who cannot be traced; to furnish such Commissions with all necessary means of transport; to allow them access to camps, prisons, hospitals and all other places; and to place at their disposal all documents, whether public or private which would facilitate their enquiries;

(2) To impose penalties upon any German officials or private persons who have concealed the presence of any nationals of any of the Allied and Associated Powers or have neglected to reveal the presence of any such after it had come to their knowledge.

ARTICLE 223.

Germany undertakes to restore without delay from the date of the coming into force of the present Treaty all articles, money, securities and documents which have belonged to nationals of the Allied and Associated Powers and which have been retained by the German authorities.

ARTICLE 224.

The High Contracting Parties waive reciprocally all repayment of sums due for the maintenance of prisoners of war in their respective territories.

SECTION II.

GRAVES.

ARTICLE 225.

The Allied and Associated Governments and the German Government will cause to be respected and maintained the graves of the soldiers and sailors buried in their respective territories.

They agree to recognise any Commission appointed by an Allied or Associated Government for the purpose of identifying, registering, caring for or erecting suitable memorials over the said graves and to facilitate the discharge of its duties.

Furthermore they agree to afford, so far as the provisions of their laws and the requirements of public health allow, every facility for giving effect to requests that the bodies of their soldiers and sailors may be transferred to their own country.

ARTICLE 226.

The graves of prisoners of war and interned civilians who are nationals of the different belligerent States and have died in captivity shall be properly maintained in accordance with Article 225 of the present Treaty.

The Allied and Associated Governments on the one part and the German Government on the other part reciprocally undertake also to furnish to each other :

(1) A complete list of those who have died, together with all information useful for identification;

(2) All information as to the number and position of the graves of all those who have been buried without identification.

PART VII.

PENALTIES.

ARTICLE 227.

The Allied and Associated Powers publicly arraign William II of Hohenzollern, formerly German Emperor, for a supreme offence against international morality and the sanctity of treaties.

A special tribunal will be constituted to try the accused, thereby assuring him the guarantees essential to the right of defence. It will be composed of five judges, one appointed by each of the following Powers: namely, the United States of America, Great Britain, France, Italy and Japan.

In its decision the tribunal will be guided by the highest motives of international policy, with a view to vindicating the solemn obligations of international undertakings and the validity of international morality. It will be its duty to fix the punishment which it considers should be imposed.

The Allied and Associated Powers will address a request to the Government of the Netherlands for the surrender to them of the ex-Emperor in order that he may be put on trial.

ARTICLE 228.

The German Government recognizes the right of the Allied and Associated Powers to bring before military tribunals persons accused of having committed acts in violation of the laws and customs of war. Such persons shall, if found guilty, be sentenced to punishments laid down by law. This provision will apply notwithstanding any proceedings or prosecution before a tribunal in Germany or in the territory of her allies.

The German Government shall hand over to the Allied and Associated Powers, or to such one of them as shall so request, all persons accused of having committed an act in violation of the laws and customs of war, who are specified either by name or by the rank, office or employment which they held under the German authorities.

ARTICLE 229.

Persons guilty of criminal acts against the nationals of one of the Allied and Associated Powers will be brought before the military tribunals of that Power.

Persons guilty of criminal acts against the nationals of more than one of the Allied and Associated Powers will be brought before military tribunals composed of members of the military tribunals of the Powers concerned.

In every case the accused will be entitled to name his own counsel.

ARTICLE 230.

The German Government undertakes to furnish all documents and information of every kind, the production of which may be considered necessary to ensure the full knowledge of the incriminating acts, the discovery of offenders and the just appreciation of responsibility.

PART VIII.
REPARATION.

SECTION I.
GENERAL PROVISIONS.

ARTICLE 231.

The allied and Associated Governments affirm and Germany accepts the responsibility of Germany and her allies for causing all the loss and damage to which the Allied and Associated Governments and their nationals have been subjected as a consequence of the war imposed upon them by the aggression of Germany and her allies.

ARTICLE 232.

The Allied and Associated Governments recognize that the resources of Germany are not adequate, after taking into account permanent diminutions of such resources which will result from other provisions of the present Treaty, to make complete reparation for all such loss and damage.

The Allied and Associated Governments, however, require, and Germany undertakes, that she will make compensation for all damage done to the civilian population of the Allied and Associated Powers and to their property during the period of the belligerency of each as an Allied or Associated Power against Germany by such aggression by land, by sea and from the air, and in general all damage as defined in Annex I hereto.

In accordance with Germany's pledges, already given, as to complete restoration for Belgium, Germany undertakes, in addition to the compensation for damage elsewhere in this Part provided for, as a consequence of the violation of the Treaty of 1839, to make reimbursement of all sums which Belgium has borrowed from the Allied and Associated Governments up to November 11, 1918, together with interest at the rate of five per cent. (5%) per annum on such sums. This amount shall be determined by the Reparation Commission, and the German Government undertakes thereupon forthwith to make a special issue of bearer bonds to an equivalent amount payable in marks gold, on May 1, 1926, or, at the option of the German Government, on the 1st of May in any year up to 1926. Subject to the foregoing, the form of such bonds shall be determined by the Reparation Commission. Such bonds shall be handed over to the Reparation Commission, which has authority to take and acknowledge receipt thereof on behalf of Belgium.

ARTICLE 233.

The amount of the above damage for which compensation is to be made by Germany shall be determined by an Inter-Allied Commission, to be called the

Reparation Commission and constituted in the form and with the powers set forth hereunder and in Annexes II to VII inclusive hereto.

This Commission shall consider the claims and give to the German Government a just opportunity to be heard.

The findings of the Commission as to the amount of damage defined as above shall be concluded and notified to the German Government on or before May 1, 1921, as representing the extent of that Government's obligations.

The Commission shall concurrently draw up a schedule of payments prescribing the time and manner for securing and discharging the entire obligation within a period of thirty years from May 1, 1921. If, however, within the period mentioned, Germany fails to discharge her obligations, any balance remaining unpaid may, within the discretion of the Commission, be postponed for settlement in subsequent years, or may be handled otherwise in such manner as the Allied and Associated Governments, acting in accordance with the procedure laid down in this Part of the present Treaty, shall determine.

ARTICLE 234.

The Reparation Commission shall after May 1, 1921, from time to time, consider the resources and capacity of Germany, and, after giving her representatives a just opportunity to be heard, shall have discretion to extend the date, and to modify the form of payments, such as are to be provided for in accordance with Article 233; but not to cancel any part except with the specific authority of the several Governments represented upon the Commission.

ARTICLE 235.

In order to enable the Allied and Associated Powers to proceed at once to the restoration of their industrial and economic life, pending the full determination of their claims, Germany shall pay in such instalments and in such manner (whether in gold, commodities, ships, securities or otherwise) as the Reparation Commission may fix, during 1919, 1920 and the first four months of 1921, the equivalent of 20,000,000,000 gold marks. Out of this sum the expenses of the armies of occupation subsequent to the Armistice of November 11, 1918, shall first be met, and such supplies of food and raw materials as may be judged by the Governments of the Principal Allied and Associated Powers to be essential to enable Germany to meet her obligations for reparation may also, with the approval of the said Governments, be paid for out of the above sum. The balance shall be reckoned towards liquidation of the amounts due for reparation. Germany shall further deposit bonds as prescribed in paragraph 12 (c) of Annex II hereto.

ARTICLE 236.

Germany further agrees to the direct application of her economic resources to reparation as specified in Annexes III, IV, V, and VI, relating respectively to merchant shipping, to physical restoration, to coal and derivatives of

coal, and to dyestuffs and other chemical products; provided always that the value of the property transferred and any services rendered by her under these Annexes, assessed in the manner therein prescribed, shall be credited to her towards liquidation of her obligations under the above Articles.

ARTICLE 237.

The successive instalments, including the above sum, paid over by Germany in satisfaction of the above claims will be divided by the Allied and Associated Governments in proportions which have been determined upon by them in advance on a basis of general equity and of the rights of each.

For the purposes of this division the value of property transferred and services rendered under Article 243, and under Annexes III, IV, V, VI, and VII, shall be reckoned in the same manner as cash payments effected in that year.

ARTICLE 238.

In addition to the payments mentioned above Germany shall effect, in accordance with the procedure laid down by the Reparation Commission, restitution in cash of cash taken away, seized or sequestered, and also restitution of animals, objects of every nature and securities taken away, seized or sequestered, in the cases in which it proves possible to identify them in territory belonging to Germany or her allies.

Until this procedure is laid down, restitution will continue in accordance with the provisions of the Armistice of November 11, 1918, and its renewals and the Protocols thereto.

ARTICLE 239.

The German Government undertakes to make forthwith the restitution contemplated by Article 238 and to make the payments and deliveries contemplated by Articles 233, 234, 235 and 236.

ARTICLE 240.

The German Government recognizes the Commission provided for by Article 233 as the same may be constituted by the Allied and Associated Governments in accordance with Annex II, and agrees irrevocably to the possession and exercise by such Commission of the power and authority given to it under the present Treaty.

The German Government will supply to the Commission all the information which the Commission may require relative to the financial situation and operations and to the property, productive capacity, and stocks and current production of raw materials and manufactured articles of Germany and her nationals, and further any information relative to military operations which in the judgment of the Commission may be necessary for the assessment of Germany's liability for reparation as defined in Annex I.

The German Government will accord to the members of the Commission and its authorised agents the same rights and immunities as are enjoyed in Germany by duly accredited diplomatic agents of friendly Powers.

Germany further agrees to provide for the salaries and expenses of the Commission and of such staff as it may employ.

ARTICLE 241.

Germany undertakes to pass, issue and maintain in force any legislation, orders and decrees that may be necessary to give complete effect to these provisions.

ARTICLE 242.

The provisions of this Part of the present Treaty do not apply to the property, rights and interests referred to in Sections III and IV of Part X (Economic Clauses) of the present Treaty, nor to the product of their liquidation, except so far as concerns any final balance in favour of Germany under Article 243 (a).

ARTICLE 243.

The following shall be reckoned as credits to Germany in respect of her reparation obligations:

(a) Any final balance in favour of Germany under Section V (Alsace-Lorraine) of Part III (Political Clauses for Europe) and Sections III and IV of Part X (Economic Clauses) of the present Treaty;

(b) Amounts due to Germany in respect of transfers under Section IV (Saar Basin) of Part III (Political Clauses for Europe), Part IX (Financial Clauses), and Part XII (Ports, Waterways and Railways);

(c) Amounts which in the judgment of the Reparation Commission should be credited to Germany on account of any other transfers under the present Treaty of property, rights, concessions or other interests.

In no case however shall credit be given for property restored in accordance with Article 238 of the present Part.

ARTICLE 244.

The transfer of the German submarine cables which do not form the subject of particular provisions of the present Treaty is regulated by Annex VII hereto.

ANNEX I.

Compensation may be claimed from Germany under Article 232 above in respect of the total damage under the following categories:

(1) Damage to injured persons and to surviving dependents by personal injury to or death of civilians caused by acts of war, including bombardments or other attacks on land, on sea, or from the air, and all the direct conse-

quences thereof, and of all operations of war by the two groups of belligerents wherever arising.

(2) Damage caused by Germany or her allies to civilian victims of acts of cruelty, violence or maltreatment (including injuries to life or health as a consequence of imprisonment, deportation, internment or evacuation, of exposure at sea or of being forced to labour), wherever arising, and to the surviving dependents of such victims.

(3) Damage caused by Germany or her allies in their own territory or in occupied or invaded territory to civilian victims of all acts injurious to health or capacity to work, or to honour, as well as to the surviving dependents of such victims.

(4) Damage caused by any kind of maltreatment of prisoners of war.

(5) As damage caused to the peoples of the Allied and Associated Powers, all pensions and compensation in the nature of pensions to naval and military victims of war (including members of the air force, whether mutilated, wounded, sick or invalided, and to the dependents of such victims, the amount due to the Allied and Associated Governments being calculated for each of them as being the capitalised cost of such pensions and compensations at the date of the coming into force of the present Treaty on the basis of the scales in force in France at such date.

(6) The cost of assistance by the Government of the Allied and Associated Powers to prisoners of war and to their families and dependents.

(7) Allowances by the Governments of the Allied and Associated Powers to the families and dependents of mobilised persons or persons serving with the forces, the amount due to them for each calendar year in which hostilities occurred being calculated for each Government on the basis of the average scale for such payments in force in France during that year.

(8) Damage caused to civilians by being forced by Germany or her allies to labour without just remuneration.

(9) Damage in respect of all property wherever situated belonging to any of the Allied or Associated States or their nationals, with the exception of naval and military works or materials, which has been carried off, seized, injured or destroyed by the acts of Germany or her allies on land, on sea or from the air, or damage directly in consequence of hostilities or of any operations of war.

(10) Damage in the form of levies, fines and other similar exactions imposed by Germany or her allies upon the civilian population.

ANNEX II.

1. The Commission referred to in Article 233 shall be called "The Reparation Commission" and is hereinafter referred to as "the Commission."

2. Delegates to this Commission shall be nominated by the United States of America, Great Britain, France, Italy, Japan, Belgium and the Serb-Croat-Slovene State. Each of these Powers will appoint one Delegate and also one Assistant Delegate, who will take his place in case of illness or necessary ab-

sence, but at other times will only have the right to be present at proceedings without taking any part therein.

On no occasion shall the Delegates of more than five of the above Powers have the right to take part in the proceedings of the Commission and to record their votes. The Delegates of the United States, Great Britain, France and Italy shall have this right on all occasions. The Delegate of Belgium shall have this right on all occasions other than those referred to below. The Delegate of Japan shall have this right on occasions when questions relating to damage at sea, and questions arising under Article 260 of Part IX (Financial Clauses) in which Japanese interests are concerned, are under consideration. The Delegate of the Serb-Croat-Slovene State shall have this right when questions relating to Austria, Hungary or Bulgaria are under consideration.

Each Government represented on the Commission shall have the right to withdraw therefrom upon twelve months' notice filed with the Commission and confirmed in the course of the sixth month after the date of the original notice.

3. Such of the other Allied and Associated Powers as may be interested shall have the right to appoint a Delegate to be present and act as Assessor only while their respective claims and interests are under examination or discussion, but without the right to vote.

4. In case of the death, resignation or recall of any Delegate, Assistant Delegate or Assessor, a successor to him shall be nominated as soon as possible.

5. The Commission will have its principal permanent Bureau in Paris and will hold its first meeting in Paris as soon as practicable after the coming into force of the present treaty, and thereafter will meet in such place or places and at such time as it may deem convenient and as may be necessary for the most expeditious discharge of its duties.

6. At its first meeting the Commission shall elect, from among the Delegates referred to above, a Chairman and a Vice-Chairman, who shall hold office for one year and shall be eligible for re-election. If a vacancy in the Chairmanship or Vice-Chairmanship should occur during the annual period, the Commission shall proceed to a new election for the remainder of the said period.

7. The Commission is authorised to appoint all necessary officers, agents and employees who may be required for the execution of its functions, and to fix their remuneration; to constitute committees, whose members need not necessarily be members of the Commission, and to take all executive steps necessary for the purpose of discharging its duties; and to delegate authority and discretion to officers, agents and committees.

8. All proceedings of the Commission shall be private, unless, on particular occasions, the Commission shall otherwise determine for special reasons.

9. The Commission shall be required, if the German Government so desire, to hear, within a period which it will fix from time to time, evidence and arguments on the part of Germany on any question connected with her capacity to pay.

10. The Commission shall consider the claims and give to the German Government a just opportunity to be heard, but not to take any part whatever in the decisions of the Commission. The Commission shall afford a similar opportunity to the allies of Germany, when it shall consider that their interests are in question.

11. The Commission shall not be bound by any particular code or rules of law or by any particular rule of evidence or of procedure, but shall be guided by justice, equity and good faith. Its decisions must follow the same principles and rules in all cases where they are applicable. It will establish rules relating to methods of proof of claims. It may act on any trustworthy modes of computation.

12. The Commission shall have all the powers conferred upon it, and shall exercise all the functions assigned to it, by the present Treaty.

The Commission shall in general have wide latitude as to its control and handling of the whole reparation problem as dealt with in this Part of the present Treaty and shall have authority to interpret its provisions. Subject to the provisions of the present Treaty, the Commission is constituted by the several Allied and Associated Governments referred to in paragraphs 2 and 3 above as the exclusive agency of the said Governments respectively for receiving, selling, holding, and distributing the reparation payments to be made by Germany under this Part of the present Treaty. The Commission must comply with the following conditions and provisions:

(a) Whatever part of the full amount of the proved claims is not paid in gold, or in ships, securities and commodities or otherwise, Germany shall be required, under such conditions as the Commission may determine, to cover by way of guarantee by an equivalent issue of bonds, obligations or otherwise, in order to constitute an acknowledgment of the said part of the debt.

(b) In periodically estimating Germany's capacity to pay, the Commission shall examine the German system of taxation, first, to the end that the sums for reparation which Germany is required to pay shall become a charge upon all her revenues prior to that for the service or discharge of any domestic loan, and secondly, so as to satisfy itself that, in general, the German scheme of taxation is fully as heavy proportionately as that of any of the Powers represented on the Commission.

(c) In order to facilitate and continue the immediate restoration of the economic life of the Allied and Associated countries, the Commission will as provided in Article 235 take from Germany by way of security for and acknowledgment of her debt a first instalment of gold bearer bonds free of all taxes and charges of every description established or to be established by the Government of the German Empire or of the German States, or by any authority subject to them; these bonds will be delivered on account and in three portions, the marks gold being payable in conformity with Article 262 of Part IX (Financial Clauses) of the present Treaty as follows:

(1) To be issued forthwith, 20,000,000,000 Marks gold bearer bonds, payable not later than May 1, 1921, without interest. There shall be specially applied

towards the amortisation of these bonds the payments which Germany is pledged to make in conformity with Article 235, after deduction of the sums used for the reimbursement of expenses of the armies of occupation and for payment of foodstuffs and raw materials. Such bonds as have not been redeemed by May 1, 1921, shall then be exchanged or new bonds of the same type as those provided for below (paragraph 12, c, (2)).

(2) To be issued forthwith, further 40,000,000,000 Marks gold bearer bonds, bearing interest at $2\frac{1}{2}$ per cent. per annum between 1921 and 1926, and thereafter at 5 per cent. per annum with an additional 1 per cent. for amortisation beginning in 1926 on the whole amount of the issue.

(3) To be delivered forthwith a covering undertaking in writing to issue when, but not until, the Commission is satisfied that Germany can meet such interest and sinking fund obligations, a further instalment of 40,000,000,000 Marks gold 5 per cent. bearer bonds, the time and mode of payment of principal and interest to be determined by the Commission.

The dates for payment of interest, the manner of applying the amortisation fund, and all other questions relating to the issue, management and regulation of the bond issue shall be determined by the Commission from time to time.

Further issues by way of acknowledgment and security may be required as the Commission subsequently determines from time to time.

(d) In the event of bonds, obligations or other evidence of indebtedness issued by Germany by way of security for or acknowledgment of her reparation debt being disposed of outright, not by way of pledge, to persons other than the several Governments in whose favour Germany's original reparation indebtedness was created, an amount of such reparation indebtedness shall be deemed to be extinguished corresponding to the nominal value of the bonds, etc., so disposed of outright, and the obligation of Germany in respect of such bonds shall be confined to her liabilities to the holders of the bonds, as expressed upon their face

(e) The damage for repairing, reconstructing and rebuilding property in the invaded and devastated districts, including reinstallation of furniture, machinery and other equipment, will be calculated according to the cost at the dates when the work is done.

(f) Decisions of the Commission relating to the total or partial cancellation of the capital or interest of any verified debt of Germany must be accompanied by a statement of its reasons.

13. As to voting, the Commission will observe the following rules:

When a decision of the Commission is taken, the votes of all the Delegates entitled to vote, or in the absence of any of them, of their Assistant Delegates, shall be recorded. Abstention from voting is to be treated as a vote against the proposal under discussion. Assessors have no vote.

On the following questions unanimity is necessary:

(a) Questions involving the sovereignty of any of the Allied and Associated Powers, or the cancellation of the whole or any part of the debt or obligations of Germany;

(b) Questions of determining the amount and conditions of bonds or other obligations to be issued by the German Government and of fixing the time and manner for selling, negotiating or distributing such bonds;

(c) Any postponement, total or partial, beyond the end of 1930, of the payment of instalments falling due between May 1, 1921, and the end of 1926 inclusive;

(d) Any postponement, total or partial, of any instalment falling due after 1926 for a period exceeding three years;

(e) Questions of applying in any particular case a method of measuring damages different from that which has been previously applied in a similar case;

(f) Questions of the interpretation of the provisions of this Part of the present Treaty.

All other questions shall be decided by the vote of a majority.

In case of any difference of opinion among the Delegates, which cannot be solved by reference to their Governments, upon the question whether a given case is one which requires a unanimous vote for its decision or not, such difference shall be referred to the immediate arbitration of some impartial person to be agreed upon by their Governments, whose award the Allied and Associated Governments agree to accept.

14. Decisions of the Commission, in accordance with the powers conferred upon it, shall forthwith become binding and may be put into immediate execution without further proceedings.

15. The Commission will issue to each of the interested Powers, in such form as the Commission shall fix:

(1) A certificate stating that it holds for the account of the said Power bonds of the issues mentioned above, the said certificate, on the demand of the Power concerned, being divisible in a number of parts not exceeding five;

(2) From time to time certificates stating the goods delivered by Germany on account of her reparation debt which it holds for the account of the said Power.

The said certificates shall be registered, and upon notice to the Commission, may be transferred by endorsement.

When bonds are issued for sale or negotiation, and when goods are delivered by the Commission, certificates to an equivalent value must be withdrawn.

16. Interest shall be debited to Germany as from May 1, 1921, in respect of her debt as determined by the Commission, after allowing for sums already covered by cash payments or their equivalent, or by bonds issued to the Commission, or under Article 243. The rate of interest shall be 5 per cent. unless the Commission shall determine at some future time that circumstances justify a variation of this rate.

The Commission, in fixing on May 1, 1921, the total amount of the debt of Germany, may take account of interest due on sums arising out of the

reparation of material damage as from November 11, 1918, up to May 1, 1921.

17. In case of default by Germany in the performance of any obligation under this Part of the present Treaty, the Commission will forthwith give notice of such default to each of the interested Powers and may make such recommendations as to the action to be taken in consequence of such default as it may think necessary.

18. The measures which the Allied and Associated Powers shall have the right to take, in case of voluntary default by Germany, and which Germany agrees not to regard as acts of war, may include economic and financial prohibitions and reprisals and in general such other measures as the respective Governments may determine to be necessary in the circumstances.

19. Payments required to be made in gold or its equivalent on account of the proved claims of the Allied and Associated Powers may at any time be accepted by the Commission in the form of chattels, properties, commodities, businesses, rights, concessions, within or without German territory, ships, bonds, shares or securities of any kind, or currencies of Germany or other States, the value of such substitutes for gold being fixed at a fair and just amount by the Commission itself.

20. The Commission, in fixing or accepting payment in specified properties or rights, shall have due regard for any legal or equitable interests of the Allied and Associated Powers or of neutral Powers or of their nationals therein.

21. No member of the Commission shall be responsible, except to the Government appointing him, for any action or omission as such member. No one of the Allied or Associated Governments assumes any responsibility in respect of any other Government.

22. Subject to the provisions of the present Treaty this Annex may be amended by the unanimous decision of the Governments represented from time to time upon the Commission.

23. When all the amounts due from Germany and her allies under the present Treaty or the decisions of the Commission have been discharged and all sums received, or their equivalents, shall have been distributed to the Powers interested, the Commission shall be dissolved.

ANNEX III.

1. Germany recognises the right of the Allied and Associated Powers to the replacement, ton for ton (gross tonnage) and class for class, of all merchant ships and fishing boats lost or damaged owing to the war.

Nevertheless, and in spite of the fact that the tonnage of German shipping at present in existence is much less than that lost by the Allied and Associated Powers in consequence of the German aggression, the right thus recognised will be enforced on German ships and boats under the following conditions:

The German Government, on behalf of themselves and so as to bind all other persons interested, cede to the Allied and Associated Governments the property in all the German merchant ships which are of 1,600 tons gross

and upwards; in one-half, reckoned in tonnage, of the ships which are between 1,000 tons and 1,600 tons gross; in one-quarter, reckoned in tonnage, of the steam trawlers; and in one-quarter, reckoned in tonnage, of the other fishing boats.

2. The German Government will, within two months of the coming into force of the present Treaty, deliver to the Reparation Commission all the ships and boats mentioned in paragraph 1.

3. The ships and boats mentioned in paragraph 1 include all ships and boats which (a) fly, or may be entitled to fly, the German merchant flag; or (b) are owned by any German national, company or corporation or by any company or corporation belonging to a country other than an Allied or Associated country and under the control or direction of German nationals; or (c) are now under construction (1) in Germany, (2) in other than Allied or Associated countries for the account of any German national, company or corporation.

4. For the purpose of providing documents of title for the ships and boats to be handed over as above mentioned, the German Government will:

(a) Deliver to the Reparation Commission in respect of each vessel a bill of sale or other document of title evidencing the transfer to the Commission of the entire property in the vessel, free from all encumbrances, charges and liens of all kinds, as the Commission may require;

(b) Take all measures that may be indicated by the Reparation Commission for ensuring that the ships themselves shall be placed at its disposal.

5. As an additional part of reparation, Germany agrees to cause merchant ships to be built in German yards for the account of the Allied and Associated Governments as follows:

(a) Within three months of the coming into force of the present Treaty, the Reparation Commission will notify to the German Government the amount of tonnage to be laid down in German ship yards in each of the two years next succeeding the three months mentioned above.

(b) Within two years of the coming into force of the present Treaty, the Reparation Commission will notify to the German Government the amount of tonnage to be laid down in each of the three years following the two years mentioned above.

(c) The amount of tonnage to be laid down in each year shall not exceed 200,000 tons, gross tonnage.

(d) The specifications of the ships to be built, the conditions under which they are to be built and delivered, the price per ton at which they are to be accounted for by the Reparation Commission, and all other questions relating to the accounting, ordering, building and delivery of the ships, shall be determined by the Commission.

Germany undertakes to restore in kind and in normal condition of upkeep to the Allied and Associated Powers, within two months of the coming into force of the present Treaty, in accordance with procedure to be laid down by the Reparation Commission, any boats and other movable appliances belonging to inland navigation which since August 1, 1914, have by any means

whatever come into her possession or into the possession of her nationals, and which can be identified.

With a view to make good the loss in inland navigation tonnage, from whatever cause arising, which has been incurred during the war by the Allied and Associated Powers, and which cannot be made good by means of the restitution prescribed above, Germany agrees to cede to the Reparation Commission a portion of the German river fleet up to the amount of the loss mentioned above, provided that such cession shall not exceed 20 per cent. of the river fleet as it existed on November 11, 1918.

The conditions of this cession shall be settled by the arbitrators referred to in Article 339 of Part XII (Ports, Waterways and Railways) of the present Treaty, who are charged with the settlement of difficulties relating to the apportionment of river tonnage resulting from the new international régime applicable to certain river systems or from the territorial changes affecting those systems.

7. Germany agrees to take any measures that may be indicated to her by the Reparation Commission for obtaining the full title to the property in all ships which have during the war been transferred, or are in process of transfer, to neutral flags, without the consent of the Allied and Associated Governments.

8. Germany waives all claims of any description against the Allied and Associated Governments and their nationals in respect of the detention, employment, loss or damage of any German ships or boats, exception being made of payments due in respect of the employment of ships in conformity with the Armistice Agreement of January 13, 1919, and subsequent Agreements.

The handing over of the ships of the German mercantile marine must be continued without interruption in accordance with the said Agreement.

9. Germany waives all claims to vessels or cargoes sunk by or in consequence of naval action and subsequently salvaged, in which any of the Allied or Associated Governments or their nationals may have any interest either as owners, charterers, insurers or otherwise, notwithstanding any decree of condemnation which may have been made by a Prize Court of Germany or of her allies.

ANNEX IV.

1. The Allied and Associated Powers require, and Germany undertakes, that in part satisfaction of her obligations expressed in the present Part she will, as hereinafter provided, devote her economic resources directly to the physical restoration of the invaded areas of the Allied and Associated Powers, to the extent that these Powers may determine.

2. The Allied and Associated Governments may file with the Reparation Commission lists showing:

(a) Animals, machinery, equipment, tools and like articles of a commercial character, which have been seized, consumed or destroyed by Germany or

destroyed in direct consequence of military operations, and which such Governments, for the purpose of meeting immediate and urgent needs, desire to have replaced by animals and articles of the same nature which are in being in German territory at the date of the coming into force of the present Treaty;

(b) Reconstruction materials (stones, bricks, refractory bricks, tiles, wood, window-glass, steel, lime, cement, etc.), machinery, heating apparatus, furniture and like articles of a commercial character which the said Governments desire to have produced and manufactured in Germany and delivered to them to permit of the restoration of the invaded areas.

3. The lists relating to the articles mentioned in 2 (a) above shall be filed within sixty days after the date of the coming into force of the present Treaty.

The lists relating to the articles in 2 (b) above shall be filed on or before December 31, 1919.

The lists shall contain all such details as are customary in commercial contracts dealing with the subject matter, including specifications, dates of delivery (but not extending over more than four years), and places of delivery, but not price or value, which shall be fixed as hereinafter provided by the Commission.

4. Immediately upon the filing of such lists with the Commission, the Commission shall consider the amount and number of the materials and animals mentioned in the lists provided for above which are to be required of Germany. In reaching a decision on this matter the Commission shall take into account such domestic requirements of Germany as it deems essential for the maintenance of Germany's social and economic life, the prices and dates at which similar articles can be obtained in the Allied and Associated countries as compared with those to be fixed for German articles, and the general interest of the Allied and Associated Governments that the industrial life of Germany be not so disorganised as to affect adversely the ability of Germany to perform the other acts of reparation stipulated for.

Machinery, equipment, tools and like articles of a commercial character in actual industrial use are not, however, to be demanded of Germany unless there is no free stock of such articles respectively which is not in use and is available, and then not in excess of thirty per cent. of the quantity of such articles in use in any one establishment or undertaking.

The Commission shall give representatives of the German Government an opportunity and a time to be heard as to their capacity to furnish the said materials, articles and animals.

The decision of the Commission shall thereupon and at the earliest possible moment be communicated to the German Government and to the several interested Allied and Associated Governments.

The German Government undertakes to deliver the materials, articles and animals as specified in the said communication, and the interested Allied and Associated Governments severally agree to accept the same, provided they

conform to the specification given, or are not, in the judgment of the Commission, unfit to be utilized in the work of reparation.

5. The Commission shall determine the value to be attributed to the materials, articles and animals to be delivered in accordance with the foregoing, and the Allied or Associated Power receiving the same agrees to be charged with such value, and the amount thereof shall be treated as a payment by Germany to be divided in accordance with Article 237 of this Part of the present Treaty.

In cases where the right to require physical restoration as above provided is exercised, the Commission shall ensure that the amount to be credited against the reparation obligation of Germany shall be the fair value of work done or materials supplied by Germany, and that the claim made by the interested Power in respect of the damage so repaired by physical restoration shall be discharged to the extent of the proportion which the damage thus repaired bears to the whole of the damage thus claimed for.

6. As an immediate advance on account of the animals referred to in paragraph 2 (a) above, Germany undertakes to deliver in equal monthly instalments in the three months following the coming into force of the present Treaty the following quantities of live stock:

(1) To the French Government.

500 stallions (3 to 7 years) ;
30,000 fillies and mares (18 months to 7 years), type: Ardennais, Boulonnais or Belgian ;
2,000 bulls (18 months to 3 years) ;
90,000 milch cows (2 to 6 years) ;
1,000 rams ;
100,000 sheep ;
10,000 goats.

(2) To the Belgian Government.

200 stallions (3 to 7 years), large Belgian type ;
5,000 mares (3 to 7 years), large Belgian type ;
5,000 fillies (18 months to 3 years), large Belgian type ;
2,000 bulls (18 months to 3 years) ;
50,000 milch cows (2 to 6 years) ;
40,000 heifers ;
200 rams ;
20,000 sheep ;
15,000 sows.

The animals delivered shall be of average health and condition.

To the extent that animals so delivered cannot be identified as animals taken away or seized, the value of such animals shall be credited against the reparation obligations of Germany in accordance with paragraph 5 of this Annex.

7. Without waiting for the decisions of the Commission referred to in paragraph 4 of this Annex to be taken, Germany must continue the delivery to France of the agricultural material referred to in Article III of the renewal dated January 16, 1919, of the Armistice.

ANNEX V.

1. Germany accords the following options for the delivery of coal and derivatives of coal to the undermentioned signatories of the present Treaty.

2. Germany undertakes to deliver to France seven million tons of coal per year for ten years. In addition, Germany undertakes to deliver to France annually for a period not exceeding ten years an amount of coal equal to the difference between the annual production before the war of the coal mines of the Nord and Pas de Calais, destroyed as a result of the war, and the production of the mines of the same area during the years in question; such delivery not to exceed twenty million tons in any one year of the first five years, and eight million tons in any one year of the succeeding five years.

It is understood that due diligence will be exercised in the restoration of the destroyed mines in the Nord and the Pas de Calais.

3. Germany undertakes to deliver to Belgium eight million tons of coal annually for ten years.

4. Germany undertakes to deliver to Italy up to the following quantities of coal:

July 1919 to June 1920	4½ million tons,
— 1920 — 1921	6 —
— 1921 — 1922	7½ —
— 1922 — 1923	8 —
— 1923 — 1924	} 8½ —

and each of the following five years

At least two-thirds of the actual deliveries to be land-borne.

5. Germany further undertakes to deliver annually to Luxemburg, if directed by the Reparation Commission, a quantity of coal equal to the pre-war annual consumption of German coal in Luxemburg.

6. The prices to be paid for coal delivered under these options shall be as follows:

(a) For overland delivery, including delivery by barge, the German pithead price to German nationals, plus the freight to French, Belgian, Italian or Luxemburg frontiers, provided that the pithead price does not exceed the pithead price of British coal for export. In the case of Belgian bunker coal, the price shall not exceed the Dutch bunker price.

Railroad and barge tariffs shall not be higher than the lowest similar rates paid in Germany.

(b) For sea delivery, the German export price f. o. b. German ports, or the British export price f. o. b. British ports, whichever may be lower.

7. The Allied and Associated Governments interested may demand the

delivery, in place of coal, of metallurgical coke in the proportion of 3 tons of coke to 4 tons of coal.

8. Germany undertakes to deliver to France, and to transport to the French frontier by rail or by water, the following products, during each of the three years following the coming into force of this Treaty:

Benzol	35,000 tons.
Coal tar	50,000 tons.
Sulphate of ammonia	30,000 tons.

All or part of the coal tar may, at the option of the French Government, be replaced by corresponding quantities of products of distillation such as light oils, heavy oils, anthracene, naphthalene or pitch.

9. The price paid for coke and for the articles referred to in the preceding paragraph shall be the same as the price paid by German nationals under the same conditions of shipment to the French frontier or to the German ports, and shall be subject to any advantages which may be accorded similar products furnished to German nationals.

10. The foregoing options shall be exercised through the intervention of the Reparation Commission, which, subject to the specific provisions hereof, shall have power to determine all questions relative to procedure and the qualities and quantities of products, the quantity of coke which may be substituted for coal, and the times and modes of delivery and payment. In giving notice to the German Government of the foregoing options the Commission shall give at least 120 days' notice of deliveries to be made after January 1, 1920, and at least 30 days' notice of deliveries to be made between the coming into force of this Treaty and January 1, 1920. Until Germany has received the demands referred to in this paragraph, the provisions of the Protocol of December 25, 1918, (Execution of Article VI of the Armistice of November 11, 1918) remain in force. The notice to be given to the German Government of the exercise of the right of substitution accorded by paragraphs 7 and 8 shall be such as the Reparation Commission may consider sufficient. If the Commission shall determine that the full exercise of the foregoing options would interfere unduly with the industrial requirements of Germany, the Commission is authorised to postpone or to cancel deliveries, and in so doing to settle all questions of priority; but the coal to replace coal from destroyed mines shall receive priority over other deliveries.

ANNEX VI.

1. Germany accords to the Reparation Commission an option to require as part of reparation the delivery by Germany of such quantities and kinds of dyestuffs and chemical drugs as the Commission may designate, not exceeding 50 per cent. of the total stock of each and every kind of dyestuff and chemical drug in Germany or under German control at the date of the coming into force of the present Treaty.

This option shall be exercised within sixty days of the receipt by the Commission of such particulars as to stocks as may be considered necessary by the Commission.

2. Germany further accords to the Reparation Commission an option to require delivery during the period from the date of the coming into force of the present Treaty until January 1, 1920, and during each period of six months thereafter until January 1, 1925, of any specified kind of dyestuff and chemical drug up to an amount not exceeding 25 per cent. of the German production of such dyestuffs and chemical drugs during the previous six months period. If in any case the production during such previous six months was, in the opinion of the Commission, less than normal, the amount required may be 25 per cent. of the normal production.

Such option shall be exercised within four weeks after the receipt of such particulars as to production and in such form as may be considered necessary by the Commission; these particulars shall be furnished by the German Government immediately after the expiration of each six months period.

3. For dyestuffs and chemical drugs delivered under paragraph 1, the price shall be fixed by the Commission having regard to pre-war net export prices and to subsequent increases of cost.

For dyestuffs and chemical drugs delivered under paragraph 2, the price shall be fixed by the Commission having regard to pre-war net export prices and subsequent variations of cost, or the lowest net selling price of similar dyestuffs and chemical drugs to any other purchaser.

4. All details, including mode and times of exercising the options, and making delivery, and all other questions arising under this arrangement shall be determined by the Reparation Commission; the German Government will furnish to the Commission all necessary information and other assistance which it may require.

5. The above expression "dyestuffs and chemical drugs" includes all synthetic dyes and drugs and intermediate or other products used in connection with dyeing, so far as they are manufactured for sale. The present arrangement shall also apply to cinchona bark and salts of quinine.

ANNEX VII.

Germany renounces on her own behalf and on behalf of her nationals in favour of the Principal Allied and Associated Powers all rights, titles or privileges of whatever nature in the submarine cables set out below, or in any portions thereof:

Emden-Vigo: from the Straits of Dover to off Vigo;

Emden-Brest: from off Cherbourg to Brest;

Emden-Teneriffe: from off Dunkirk to off Teneriffe;

Emden-Azores (1): from the Straits of Dover to Fayal;

Emden-Azores (2): from the Straits of Dover to Fayal;

Azores-New York (1): from Fayal to New York;

Azores-New York (2): from Fayal to the longitude of Halifax,

Teneriffe-Monrovia: from off Teneriffe to off Monrovia;

Monrovia-Lome:

from about.....	{	lat. : 2° 30' N.;
		long. : 7° 40' W. of Greenwich;
to about.....	{	lat. : 2° 20' N.;
		long. : 5° 30' W. of Greenwich;
and from about.....	{	lat. : 3° 48' N.;
		long. : 0° 00',

to Lome;

Lome-Duala: from Lome to Duala;

Monrovia-Pernambuco: from off Monrovia to off Pernambuco;

Constantinople-Constanza: from Constantinople to Constanza;

Yap-Shanghai, Yap-Guam, and Yap-Menado (Celebes): from Yap Island to Shanghai, from Yap Island to Guam Island, and from Yap Island to Menado.

The value of the above mentioned cables or portions thereof in so far as they are privately owned, calculated on the basis of the original cost less a suitable allowance for depreciation, shall be credited to Germany in the reparation account.

SECTION II.

SPECIAL PROVISIONS.

ARTICLE 245.

Within six months after the coming into force of the present Treaty the German Government must restore to the French Government the trophies, archives, historical souvenirs or works of art carried away from France by the German authorities in the course of the war of 1870-1871 and during this last war, in accordance with a list which will be communicated to it by the French Government; particularly the French flags taken in the course of the war of 1870-1871 and all the political papers taken by the German authorities on October 10, 1870, at the Chateau of Cerçay, near Brunoy (Seine-et-Oise) belonging at the time to Mr. Rouher, formerly Minister of State.

ARTICLE 246.

Within six months from the coming into force of the present Treaty, Germany will restore to His Majesty the King of the Hedjaz the original Koran of the Caliph Othman, which was removed from Medina by the Turkish authorities and is stated to have been presented to the ex-Emperor William II.

Within the same period Germany will hand over to His Britannic Majesty's Government the skull of the Sultan Mkwawa which was removed from the Protectorate of German East Africa and taken to Germany.

The delivery of the articles above referred to will be effected in such place and in such conditions as may be laid down by the Governments to which they are to be restored.

ARTICLE 247.

Germany undertakes to furnish to the University of Louvain, within three months after a request made by it and transmitted through the intervention of the Reparation Commission, manuscripts, incunabula, printed books, maps and objects of collection corresponding in number and value to those destroyed in the burning by Germany of the Library of Louvain. All details regarding such replacement will be determined by the Reparation Commission.

Germany undertakes to deliver to Belgium, through the Reparation Commission, within six months of the coming into force of the present Treaty, in order to enable Belgium to reconstitute two great artistic works:

(1) The leaves of the triptych of the Mystic Lamb painted by the Van Eyck brothers, formerly in the Church of St. Bavon at Ghent, now in the Berlin Museum;

(2) The leaves of the triptych of the Last Supper, painted by Dierick Bouts, formerly in the Church of St. Peter at Louvain, two of which are now in the Berlin Museum and two in the Old Pinakothek at Munich.

PART IX.

FINANCIAL CLAUSES.

ARTICLE 248.

Subject to such exceptions as the Reparation Commission may approve, a first charge upon all the assets and revenues of the German Empire and its constituent States shall be the cost of reparation and all other costs arising under the present Treaty or any treaties or agreements supplementary thereto or under arrangements concluded between Germany and the Allied and Associated Powers during the Armistice or its extensions.

Up to May 1, 1921, the German Government shall not export or dispose of, and shall forbid the export or disposal of, gold without the previous approval of the Allied and Associated Powers acting through the Reparation Commission.

ARTICLE 249.

There shall be paid by the German Government the total cost of all armies of the Allied and Associated Governments in occupied German territory from the date of the signature of the Armistice of November 11, 1918, including the keep of men and beasts, lodging and billeting, pay and allowances, salaries and wages, bedding, heating, lighting, clothing, equipment, harness and saddlery, armament and rolling-stock, air services, treatment of sick and wounded, veterinary and remount services, transport service of all sorts (such as by rail, sea or river, motor lorries), communications and correspondence, and in general the cost of all administrative or technical services

the working of which is necessary for the training of troops and for keeping their numbers up to strength and preserving their military efficiency.

The cost of such liabilities under the above heads so far as they relate to purchases or requisitions by the Allied and Associated Governments in the occupied territories shall be paid by the German Government to the Allied and Associated Governments in marks at the current or agreed rate of exchange. All other of the above costs shall be paid in gold marks.

ARTICLE 250.

Germany confirms the surrender of all material handed over to the Allied and Associated Powers in accordance with the Armistice of November 11, 1918, and subsequent Armistice Agreements, and recognises the title of the Allied and Associated Powers to such material.

There shall be credited to the German Government, against the sums due from it to the Allied and Associated Powers for reparation, the value, as assessed by the Reparation Commission, referred to in Article 233, of Part VIII (Reparation), of the present Treaty, of the material handed over in accordance with Article VII of the Armistice of November 11, 1918, or Article III of the Armistice Agreement of January 16, 1919, as well as of any other material handed over in accordance with the Armistice of November 11, 1918, and of subsequent Armistice Agreements, for which, as having non-military value, credit should, in the judgment of the Reparation Commission, not be credited to the German Government.

Property belonging to the Allied and Associated Governments or their nationals restored or surrendered under the Armistice Agreements in specie shall not be credited to the German Government.

ARTICLE 251.

The priority of the charges established by Article 248 shall, subject to the qualifications made below, be as follows:

- (a) The cost of the armies of occupation as defined under Article 249 during the Armistice and its extensions;
- (b) The cost of any armies of occupation as defined under Article 249 after the coming into force of the present Treaty;
- (c) The cost of reparation arising out of the present Treaty or any treaties or conventions supplementary thereto;
- (d) The cost of all other obligations incumbent on Germany under the Armistice Conventions or under this Treaty or any treaties or conventions supplementary thereto.

The payment for such supplies of food and raw material for Germany and such other payments as may be judged by the Allied and Associated Powers to be essential to enable Germany to meet her obligations in respect of reparation will have priority to the extent and upon the conditions which have been or may be determined by the Governments of the said Powers.

ARTICLE 252.

The right of each of the Allied and Associated Powers to dispose of enemy assets and property within its jurisdiction at the date of the coming into force of the present Treaty is not affected by the foregoing provisions.

ARTICLE 253.

Nothing in the foregoing provisions shall prejudice in any manner charges or mortgages lawfully effected in favour of the Allied or Associated Powers or their nationals respectively, before the date at which a state of war existed between Germany and the Allied or Associated Power concerned, by the German Empire or its constituent States, or by German nationals, on assets in their ownership at that date.

ARTICLE 254.

The Powers to which German territory is ceded shall, subject to the qualifications made in Article 255, undertake to pay:

- (1) A portion of the debt of the German Empire as it stood on August 1, 1914, calculated on the basis of the ratio between the average for the three financial years 1911, 1912, 1913, of such revenues of the ceded territory, and the average for the same years of such revenues of the whole German Empire as in the judgment of the Reparation Commission are best calculated to represent the relative ability of the respective territories to make payment;
- (2) A portion of the debt as it stood on August 1, 1914, of the German State to which the ceded territory belonged, to be determined in accordance with the principle stated above.

Such portions shall be determined by the Reparation Commission.

The method of discharging the obligation, both in respect of capital and of interest, so assumed shall be fixed by the Reparation Commission. Such method may take the form, *inter alia*, of the assumption by the Power to which the territory is ceded of Germany's liability for the German debt held by her nationals. But in the event of the method adopted involving any payments to the German Government, such payments shall be transferred to the Reparation Commission on account of the sums due for reparation so long as any balance in respect of such sums remains unpaid.

ARTICLE 255.

(1) As an exception to the above provision and inasmuch as in 1871 Germany refused to undertake any portion of the burden of the French debt, France shall be, in respect of Alsace-Lorraine, exempt from any payment under Article 254.

(2) In the case of Poland that portion of the debt which, in the opinion of the Reparation Commission, is attributable to the measures taken by the

German and Prussian Governments for the German colonisation of Poland shall be excluded from the apportionment to be made under Article 254.

(3) In the case of all ceded territories other than Alsace-Lorraine, that portion of the debt of the German Empire or German States which, in the opinion of the Reparation Commission, represents expenditure by the Governments of the German Empire or States upon the Government properties referred to in Article 256 shall be excluded from the apportionment to be made under Article 254.

ARTICLE 256.

Powers to which German territory is ceded shall acquire all property and possessions situated therein belonging to the German Empire or to the German States, and the value of such acquisitions shall be fixed by the Reparation Commission, and paid by the State acquiring the territory to the Reparation Commission for the credit of the German Government on account of the sums due for reparation.

For the purposes of this Article the property and possessions of the German Empire and States shall be deemed to include all the property of the Crown, the Empire or the States, and the private property of the former German Emperor and other Royal personages.

In view of the terms on which Alsace-Lorraine was ceded to Germany in 1871, France shall be exempt in respect thereof from making any payment or credit under this Article for any property or possessions of the German Empire or States situated therein.

Belgium also shall be exempt from making any payment or any credit under this Article for any property or possessions of the German Empire or States situated in German territory ceded to Belgium under the present Treaty.

ARTICLE 257.

In the case of the former German territories, including colonies, protectorates or dependencies, administered by a Mandatory under Article 22 of Part I (League of Nations) of the present Treaty, neither the territory nor the Mandatory Power shall be charged with any portion of the debt of the German Empire or States.

All property and possessions belonging to the German Empire or to the German States situated in such territories shall be transferred with the territories to the Mandatory Power in its capacity as such and no payment shall be made nor any credit given to those Governments in consideration of this transfer.

For the purposes of this Article the property and possessions of the German Empire and of the German States shall be deemed to include all the property of the Crown, the Empire or the States and the private property of the former German Emperor and other Royal personages.

ARTICLE 258.

Germany renounces all rights accorded to her or her nationals by treaties, conventions or agreements, of whatsoever kind, to representation upon or participation in the control or administration of commissions, state banks, agencies or other financial or economic organisations of an international character, exercising powers of control or administration, and operating in any of the Allied or Associated States, or in Austria, Hungary, Bulgaria or Turkey, or in the dependencies of these States, or in the former Russian Empire.

ARTICLE 259.

(1) Germany agrees to deliver within one month from the date of the coming into force of the present Treaty, to such authority as the Principal Allied and Associated Powers may designate, the sum in gold which was to be deposited in the Reichsbank in the name of the Council of the Administration of the Ottoman Public Debt as security for the first issue of Turkish Government currency notes.

(2) Germany recognises her obligation to make annually for the period of twelve years the payments in gold for which provision is made in the German Treasury Bonds deposited by her from time to time in the name of the Council of the Administration of the Ottoman Public Debt as security for the second and subsequent issues of Turkish Government currency notes.

(3) Germany undertakes to deliver, within one month from the coming into force of the present Treaty, to such authority as the Principal Allied and Associated Powers may designate, the gold deposit constituted in the Reichsbank or elsewhere, representing the residue of the advance in gold agreed to on May 5, 1915, by the Council of the Administration of the Ottoman Public Debt to the Imperial Ottoman Government.

(4) Germany agrees to transfer to the Principal Allied and Associated Powers any title that she may have to the sum in gold and silver transmitted by her to the Turkish Ministry of Finance in November, 1918, in anticipation of the payment to be made in May, 1919, for the service of the Turkish Internal Loan.

(5) Germany undertakes to transfer to the Principal Allied and Associated Powers, within a period of one month from the coming into force of the present Treaty, any sums in gold transferred as pledge or as collateral security to the German Government or its nationals in connection with loans made by them to the Austro-Hungarian Government.

(6) Without prejudice to Article 292 of Part X (Economic Clauses) of the present Treaty, Germany confirms the renunciation provided for in Article XV of the Armistice of November 11, 1918, of any benefit disclosed by the Treaties of Bucharest and of Brest-Litovsk and by the treaties supplementary thereto.

Germany undertakes to transfer, either to Roumania or to the Principal Allied and Associated Powers as the case may be, all monetary instruments,

specie, securities and negotiable instruments, or goods, which she has received under the aforesaid Treaties.

(7) The sums of money and all securities, instruments and goods of whatsoever nature, to be delivered, paid and transferred under the provisions of this Article, shall be disposed of by the Principal Allied and Associated Powers in a manner hereafter to be determined by those Powers.

ARTICLE 260.

Without prejudice to the renunciation of any rights by Germany on behalf of herself or of her nationals in the other provisions of the present Treaty, the Reparation Commission may within one year from the coming into force of the present Treaty demand that the German Government become possessed of any rights and interests of German nationals in any public utility undertaking or in any concession operating in Russia, China, Turkey, Austria, Hungary and Bulgaria, or in the possessions or dependencies of these States or in any territory formerly belonging to Germany or her allies, to be ceded by Germany or her allies to any Power or to be administered by a Mandatory under the present Treaty, and may require that the German Government transfer, within six months of the date of demand, all such rights and interests and any similar rights and interests the German Government may itself possess to the Reparation Commission.

Germany shall be responsible for indemnifying her nationals so dispossessed, and the Reparation Commission shall credit Germany, on account of sums due for reparation, with such sums in respect of the value of the transferred rights and interests as may be assessed by the Reparation Commission, and the German Government shall, within six months from the coming into force of the present Treaty, communicate to the Reparation Commission all such rights and interests, whether already granted, contingent or not yet exercised, and shall renounce on behalf of itself and its nationals in favour of the Allied and Associated Powers all such rights and interests which have not been so communicated.

ARTICLE 261.

Germany undertakes to transfer to the Allied and Associated Powers any claims she may have to payment or repayment by the Governments of Austria, Hungary, Bulgaria or Turkey, and, in particular, any claims which may arise, now or hereafter, from the fulfilment of undertakings made by Germany during the war to those Governments.

ARTICLE 262.

Any monetary obligation due by Germany arising out of the present Treaty and expressed in terms of gold marks shall be payable at the option of the creditors in pounds sterling payable in London; gold dollars of the United States of America payable in New York; gold francs payable in Paris; or gold lire payable in Rome.

For the purpose of this Article the gold coins mentioned above shall be defined as being of the weight and fineness of gold as enacted by law on January 1, 1914.

ARTICLE 263.

Germany gives a guarantee to the Brazilian Government that all sums representing the sale of coffee belonging to the State of Sao Paulo in the ports of Hamburg, Bremen, Antwerp and Trieste, which were deposited with the Bank of Bleichröder at Berlin, shall be reimbursed together with interest at the rate or rates agreed upon. Germany having prevented the transfer of the sums in question to the State of Sao Paulo at the proper time, guarantees also that the reimbursement shall be effected at the rate of exchange of the day of the deposit.

PART X.

ECONOMIC CLAUSES.

SECTION I.

COMMERCIAL RELATIONS.

CHAPTER I.

CUSTOMS REGULATIONS, DUTIES AND RESTRICTIONS.

ARTICLE 264.

Germany undertakes that goods the produce or manufacture of any one of the Allied or Associated States imported into German territory, from whatsoever place arriving, shall not be subjected to other or higher duties or charges (including internal charges) than those to which the like goods the produce or manufacture of any other such State or of any other foreign country are subject.

Germany will not maintain or impose any prohibition or restriction on the importation into German territory of any goods the produce or manufacture of the territories of any one of the Allied or Associated States, from whatsoever place arriving, which shall not equally extend to the importation of the like goods the produce or manufacture of any other such State or of any other foreign country.

ARTICLE 265.

Germany further undertakes that, in the matter of the régime applicable on importation, no discrimination against the commerce of any of the Allied and Associated States as compared with any other of the said States or any

other foreign country shall be made, even by indirect means, such as customs regulations or procedure, methods of verification or analysis conditions of payment of duties, tariff classification or interpretation, or the operation of monopolies.

ARTICLE 266.

In all that concerns exportation Germany undertakes that goods, natural products or manufactured articles, exported from German territory to the territories of any one of the Allied or Associated States shall not be subjected to other or higher duties or charges (including internal charges) than those paid on the like goods exported to any other such State or to any other foreign country.

Germany will not maintain or impose any prohibition or restriction on the exportation of any goods sent from her territory to any one of the Allied or Associated States which shall not equally extend to the exportation of the like goods, natural products or manufactured articles, sent to any other such State or to any other foreign country.

ARTICLE 267

Every favour, immunity or privilege in regard to the importation, exportation or transit of goods granted by Germany to any Allied or Associated State or to any other foreign country whatever shall simultaneously and unconditionally, without request and without compensation, be extended to all the Allied and Associated States.

ARTICLE 268.

The provisions of Articles 264 to 267 inclusive of this Chapter and of Article 323 of Part XII (Ports, Waterways and Railways) of the present Treaty are subject to the following exceptions:

(a) For a period of five years from the coming into force of the present Treaty, natural or manufactured products which both originate in and come from the territories of Alsace and Lorraine reunited to France shall, on importation into German customs territory, be exempt from all customs duty.

The French Government shall fix each year, by decree communicated to the German Government, the nature and amount of the products which shall enjoy this exemption.

The amount of each product which may be thus sent annually into Germany shall not exceed the average of the amounts sent annually in the years 1911-1913.

Further, during the period above mentioned the German Government shall allow the free export from Germany, and the free re-importation into Germany, exempt from all customs duties and other charges (including internal charges), of yarns, tissues, and other textile materials or textile products of any kind and in any condition, sent from Germany into the territories of Alsace or Lorraine, to be subjected there to any finishing process, such as bleaching, dyeing, printing, mercerisation, gassing, twisting or dressing.

(b) During a period of three years from the coming into force of the present Treaty natural or manufactured products which both originate in and come from Polish territories which before the war were part of Germany shall, on importation into German customs territory, be exempt from all customs duty.

The Polish Government shall fix each year, by decree communicated to the German Government, the nature and amount of the products which shall enjoy this exemption.

The amount of each product which may be thus sent annually into Germany shall not exceed the average of the amounts sent annually in the years 1911-1913.

(c) The Allied and Associated Powers reserve the right to require Germany to accord freedom from customs duty, on importation into German customs territory, to natural products and manufactured articles which both originate in and come from the Grand Duchy of Luxemburg, for a period of five years from the coming into force of the present Treaty.

The nature and amount of the products which shall enjoy the benefits of this régime shall be communicated each year to the German Government.

The amount of each product which may be thus sent annually into Germany shall not exceed the average of the amounts sent annually in the years 1911-1913.

ARTICLE 269.

During the first six months after the coming into force of the present Treaty, the duties imposed by Germany on imports from Allied and Associated States shall not be higher than the most favourable duties which were applied to imports into Germany on July 31, 1914.

During a further period of thirty months after the expiration of the first six months, this provision shall continue to be applied exclusively with regard to products which, being comprised in Section A of the First Category of the German Customs Tariff of December 25, 1902, enjoyed at the above-mentioned date (July 31, 1914) rates conventionalised by treaties with the Allied and Associated Powers, with the addition of all kinds of wine and vegetable oils, of artificial silk and of washed or scoured wool, whether or not they were the subject of special conventions before July 31, 1914.

ARTICLE 270.

The Allied and Associated Powers reserve the right to apply to German territory occupied by their troops a special customs régime as regards imports and exports, in the event of such a measure being necessary in their opinion in order to safeguard the economic interests of the population of these territories.

CHAPTER II.

SHIPPING.

ARTICLE 271.

As regards sea fishing, maritime coasting trade, and maritime towage, vessels of the Allied and Associated Powers shall enjoy, in German territorial waters, the treatment accorded to vessels of the most favoured nation.

ARTICLE 272.

Germany agrees that, notwithstanding any stipulation to the contrary contained in the Conventions relating to the North Sea fisheries and liquor traffic, all rights of inspection and police shall, in the case of fishing-boats of the Allied Powers, be exercised solely by ships belonging to those Powers.

ARTICLE 273.

In the case of vessels of the Allied or Associated Powers, all classes of certificates or documents to the vessel, which were recognised as valid by Germany before the war, or which may hereafter be recognised as valid by the principal maritime States, shall be recognised by Germany as valid and as equivalent to the corresponding certificates issued to German vessels.

A similar recognition shall be accorded to the certificates and documents issued to their vessels by the Governments of new States, whether they have a sea-coast or not, provided that such certificates and documents shall be issued in conformity with the general practice observed in the principal maritime States.

The High Contracting Parties agree to recognise the flag flown by the vessels of an Allied or Associated Power having no sea-coast which are registered at some one specified place situated in its territory; such place shall serve as the port of registry of such vessels.

CHAPTER III.

UNFAIR COMPETITION.

ARTICLE 274.

Germany undertakes to adopt all the necessary legislative and administrative measures to protect goods the produce or manufacture of any one of the Allied and Associated Powers from all forms of unfair competition in commercial transactions.

Germany undertakes to prohibit and repress by seizure and by other appropriate remedies the importation, exportation, manufacture, distribution, sale or offering for sale in its territory of all goods bearing upon themselves or their usual get-up or wrappings any marks, names, devices, or description

whatsoever which are calculated to convey directly or indirectly a false indication of the origin, type, nature, or special characteristics of such goods.

ARTICLE 275.

Germany undertakes on condition that reciprocity is accorded in these matters to respect any law, or any administrative or judicial decision given in conformity with such law, in force in any Allied or Associated State and duly communicated to her by the proper authorities, defining or regulating the right to any regional appellation in respect of wine or spirits produced in the State to which the region belongs, or the conditions under which the use of any such appellation may be permitted; and the importation, exportation, manufacture, distribution, sale or offering for sale of products or articles bearing regional appellations inconsistent with such law or order shall be prohibited by the German Government and repressed by the measures prescribed in the preceding Article.

CHAPTER IV.

TREATMENT OF NATIONALS OF ALLIED AND ASSOCIATED POWERS.

ARTICLE 276.

Germany undertakes:

(a) Not to subject the nationals of the Allied and Associated Powers to any prohibition in regard to the exercise of occupations, professions, trade and industry, which shall not be equally applicable to all aliens without exception;

(b) Not to subject the nationals of the Allied and Associated Powers in regard to the rights referred to in paragraph (a) to any regulation or restriction which might contravene directly or indirectly the stipulations of the said paragraph, or which shall be other or more disadvantageous than those which are applicable to nationals of the most favoured nation;

(c) Not to subject the nationals of the Allied and Associated Powers, their property, rights or interests, including companies and associations in which they are interested, to any charge, tax or impost, direct or indirect, other or higher than those which are or may be imposed on her own nationals or their property, rights or interests;

(d) Not to subject the nationals of any one of the Allied and Associated Powers to any restriction which was not applicable on July 1, 1914, to the nationals of such Powers unless such restriction is likewise imposed on her own nationals.

ARTICLE 277.

The nationals of the Allied and Associated Powers shall enjoy in German territory a constant protection for their persons and for their property, rights and interests, and shall have free access to the courts of law.

ARTICLE 278.

Germany undertakes to recognise any new nationality which has been or may be acquired by her nationals under the laws of the Allied and Associated Powers and in accordance with the decisions of the competent authorities of these Powers pursuant to naturalisation laws or under treaty stipulations, and to regard such persons as having, in consequence of the acquisition of such new nationality, in all respects severed their allegiance to their country of origin.

ARTICLE 279.

The Allied and Associated Powers may appoint consuls-general, consuls, vice-consuls, and consular agents in German towns and ports. Germany undertakes to approve the designation of the consuls-general, consuls, vice-consuls, and consular agents, whose names shall be notified to her, and to admit them to the exercise of their functions in conformity with the usual rules and customs.

CHAPTER V.

GENERAL ARTICLES.

ARTICLE 280.

The obligations imposed on Germany by Chapter I and by Articles 271 and 272 of Chapter II above shall cease to have effect five years from the date of the coming into force of the present Treaty, unless otherwise provided in the text or unless the Council of the League of Nations shall, at least twelve months before the expiration of that period, decide that these obligations shall be maintained for a further period with or without amendment.

Article 276 of Chapter IV shall remain in operation, with or without amendment, after the period of five years for such further period, if any, not exceeding five years, as may be determined by a majority of the Council of the League of Nations.

ARTICLE 281.

If the German Government engages in international trade, it shall not in respect thereof have or be deemed to have any rights, privileges or immunities of sovereignty.

SECTION II.

TREATIES.

ARTICLE 282.

From the coming into force of the present Treaty and subject to the provisions thereof the multilateral treaties, conventions and agreements of an economic or technical character enumerated below and in the subsequent

Articles shall alone be applied as between Germany and those of the Allied and Associated Powers party thereto:

(1) Conventions of March 14, 1884, December 1, 1886, and March 23, 1887, and Final Protocol of July 7, 1887, regarding the protection of submarine cables.

(2) Convention of October 11, 1909, regarding the international circulation of motor-cars.

(3) Agreement of May 15, 1886, regarding the sealing of railway trucks subject to customs inspection, and Protocol of May 18, 1907.

(4) Agreement of May 15, 1886, regarding the technical standardisation of railways.

(5) Convention of July 5, 1890, regarding the publication of customs tariffs and the organisation of an International Union for the publication of customs tariffs.

(6) Convention of December 31, 1913, regarding the unification of commercial statistics.

(7) Convention of April 25, 1917, regarding the raising of the Turkish customs tariff.

(8) Convention of March 14, 1857, for the redemption of toll dues on the Sound and Belts.

(9) Convention of June 22, 1861, for the redemption of the Stade Toll on the Elbe.

(10) Convention of July 16, 1863, for the redemption of the toll dues on the Scheldt.

(11) Convention of October 29, 1888, regarding the establishment of a definite arrangement guaranteeing the free use of the Suez Canal.

(12) Conventions of September 23, 1910, respecting the unification of certain regulations regarding collisions and salvage at sea.

(13) Convention of December 21, 1904, regarding the exemption of hospital ships from dues and charges in ports.

(14) Convention of February 4, 1898, regarding the tonnage measurement of vessels for inland navigation.

(15) Convention of September 26, 1906, for the suppression of nightwork for women.

(16) Convention of September 26, 1906, for the suppression of the use of white phosphorus in the manufacture of matches.

(17) Conventions of May 18, 1904, and May 4, 1910, regarding the suppression of the White Slave Traffic.

(18) Convention of May 4, 1910, regarding the suppression of obscene publications.

(19) Sanitary Conventions of January 30, 1892, April 15, 1893, April 3, 1894, March 19, 1897, and December 3, 1903.

(20) Convention of May 20, 1875, regarding the unification and improvement of the metric system.

(21) Convention of November 29, 1906, regarding the unification of pharmacopœial formulæ for potent drugs.

(22) Convention of November 16 and 19, 1885, regarding the establishment of a concert pitch.

(23) Convention of June 7, 1905, regarding the creation of an International Agricultural Institute at Rome.

(24) Conventions of November 3, 1881, and April 15, 1889, regarding precautionary measures against phylloxera.

(25) Convention of March 19, 1902, regarding the protection of birds useful to agriculture.

(26) Convention of June 12, 1902, as to the protection of minors.

ARTICLE 283.

From the coming into force of the present Treaty the High Contracting Parties shall apply the conventions and agreements hereinafter mentioned, in so far as concerns them, on condition that the special stipulations contained in this Article are fulfilled by Germany.

Postal Conventions:

Conventions and agreements of the Universal Postal Union concluded at Vienna, July 4, 1891.

Conventions and agreements of the Postal Union signed at Washington, June 15, 1897.

Conventions and agreements of the Postal Union signed at Rome, May 26, 1906.

Telegraphic Conventions:

International Telegraphic Conventions signed at St. Petersburg, July 10/22, 1875.

Regulations and Tariffs drawn up by the International Telegraphic Conference, Lisbon, June 11, 1908.

Germany undertakes not to refuse her assent to the conclusion by the new States of the special arrangements referred to in the conventions and agreements relating to the Universal Postal Union and to the International Telegraphic Union, to which the said new States have adhered or may adhere.

ARTICLE 284.

From the coming into force of the present Treaty the High Contracting Parties shall apply, in so far as concerns them, the International Radio-Telegraphic Convention of July 5, 1912, on condition that Germany fulfils the provisional regulations which will be indicated to her by the Allied and Associated Powers.

If within five years after the coming into force of the present Treaty a new convention regulating international radio-telegraphic communications should have been concluded to take the place of the Convention of July 5, 1912, this new convention shall bind Germany, even if Germany should refuse either to take part in drawing up the convention, or to subscribe thereto.

This new convention will likewise replace the provisional regulations in force.

ARTICLE 285.

From the coming into force of the present Treaty, the High Contracting Parties shall apply in so far as concerns them and under the conditions stipulated in Article 272, the conventions hereinafter mentioned:

(1) The Conventions of May 6, 1882, and February 1, 1889, regulating the fisheries in the North Sea outside territorial waters.

(2) The Conventions and Protocols of November 16, 1887, February 14, 1893, and April 11, 1894, regarding the North Sea liquor traffic.

ARTICLE 286.

The International Convention of Paris of March 20, 1883, for the protection of industrial property, revised at Washington on June 2, 1911; and the International Convention of Berne of September 9, 1886, for the protection of literary and artistic works, revised at Berlin on November 13, 1908, and completed by the additional Protocol signed at Berne on March 20, 1914, will again come into effect as from the coming into force of the present Treaty, in so far as they are not affected or modified by the exceptions and restrictions resulting therefrom.

ARTICLE 287.

From the coming into force of the present Treaty the High Contracting Parties shall apply, in so far as concerns them, the Convention of the Hague of July 17, 1905, relating to civil procedure. This renewal, however, will not apply to France, Portugal and Roumania.

ARTICLE 288.

The special rights and privileges granted to Germany by Article 3 of the Convention of December 2, 1899, relating to Samoa shall be considered to have terminated on August 4, 1914.

ARTICLE 289.

Each of the Allied or Associated Powers, being guided by the general principles or special provisions of the present Treaty, shall notify to Germany the bilateral treaties or conventions which such Allied or Associated Power wishes to revive with Germany.

The notification referred to in the present Article shall be made either directly or through the intermediary of another Power. Receipt thereof shall be acknowledged in writing by Germany. The date of the revival shall be that of the notification.

The Allied and Associated Powers undertake among themselves not to

revive with Germany any conventions or treaties which are not in accordance with the terms of the present Treaty.

The notification shall mention any provisions of the said conventions and treaties which, not being in accordance with the terms of the present Treaty, shall not be considered as revived.

In case of any difference of opinion, the League of Nations will be called on to decide.

A period of six months from the coming into force of the present Treaty is allowed to the Allied and Associated Powers within which to make the notification.

Only those bilateral treaties and conventions which have been the subject of such a notification shall be revived between the Allied and Associated Powers and Germany; all the others are and shall remain abrogated.

The above regulations apply to all bilateral treaties or conventions existing between all the Allied and Associated Powers signatories to the present Treaty and Germany, even if the said Allied and Associated Powers have not been in a state of war with Germany.

ARTICLE 290.

Germany recognizes that all the treaties, conventions or agreements which she has concluded with Austria, Hungary, Bulgaria or Turkey since August 1, 1914, until the coming into force of the present Treaty are and remain abrogated by the present Treaty.

ARTICLE 291.

Germany undertakes to secure to the Allied and Associated Powers, and to the officials and nationals of the said Powers, the enjoyment of all the rights and advantages of any kind which she may have granted to Austria, Hungary, Bulgaria or Turkey, or to the officials and nationals of these States by treaties, conventions or arrangements concluded before August 1, 1914, so long as those treaties, conventions or arrangements remain in force.

The Allied and Associated Powers reserve the right to accept or not the enjoyment of these rights and advantages.

ARTICLE 292.

Germany recognizes that all treaties, conventions or arrangements which she concluded with Russia, or with any State or Government of which the territory previously formed a part of Russia, or with Roumania, before August 1, 1914, or after that date until coming into force of the present Treaty, are and remain abrogated.

ARTICLE 293.

Should an Allied or Associated Power, Russia, or a State or Government of which the territory formerly constituted a part of Russia, have been forced since August 1, 1914, by reason of military occupation or by any other

means or for any other cause, to grant or to allow to be granted by the act of any public authority, concessions, privileges and favours of any kind to Germany or to a German national, such concessions, privileges and favours are *ipso facto* annulled by the present Treaty.

No claims or indemnities which may result from this annulment shall be charged against the Allied or Associated Powers or the Powers, States, Governments or public authorities which are released from their engagements by the present Article.

ARTICLE 294.

From the coming into force of the present Treaty Germany undertakes to give the Allied and Associated Powers and their nationals the benefit *ipso facto* of the rights and advantages of any kind which she has granted by treaties, conventions, or arrangements to nonbelligerent States or their nationals since August 1, 1914, until the coming into force of the present Treaty, so long as those treaties, conventions or arrangements remain in force.

ARTICLE 295.

Those of the High Contracting Parties who have not yet signed, or who have signed but not yet ratified, the Opium Convention signed at The Hague on January 23, 1912, agree to bring the said Convention into force, and for this purpose to enact the necessary legislation without delay and in any case within a period of twelve months from the coming into force of the present Treaty.

Furthermore, they agree that ratification of the present Treaty should in the case of Powers which have not yet ratified the Opium Convention be deemed in all respects equivalent to the ratification of that Convention and to the signature of the Special Protocol which was opened at The Hague in accordance with the resolutions adopted by the Third Opium Conference in 1914 for bringing the said Convention into force.

For this purpose the Government of the French Republic will communicate to the Government of the Netherlands a certified copy of the protocol of the deposit of ratifications of the present Treaty, and will invite the Government of the Netherlands to accept and deposit the said certified copy as if it were a deposit of ratifications of the Opium Convention and a signature of the Additional Protocol of 1914.

SECTION III.

DEBTS.

ARTICLE 296.

There shall be settled through the intervention of clearing offices to be established by each of the High Contracting Parties within three months of the notification referred to in paragraph (e) hereafter the following classes of pecuniary obligations:

(1) Debts payable before the war and due by a national of one of the Contracting Powers, residing within its territory, to a national of an Opposing Power, residing within its territory;

(2) Debts which became payable during the war to nationals of one Contracting Power residing within its territory and arose out of transactions or contracts with the nationals of an Opposing Power, resident within its territory, of which the total or partial execution was suspended on account of the declaration of war;

(3) Interest which has accrued due before and during the war to a national of one of the Contracting Powers in respect of securities issued by an Opposing Power, provided that the payment of interest on such securities to the nationals of that Power or to neutrals has not been suspended during the war;

(4) Capital sums which have become payable before and during the war to nationals of one of the Contracting Powers in respect of securities issued by one of the Opposing Powers, provided that the payment of such capital sums to nationals of that Power or to neutrals has not been suspended during the war.

The proceeds of liquidation of enemy property, rights and interests mentioned in Section IV and in the Annex thereto will be accounted for through the Clearing Offices, in the currency and at the rate of exchange hereinafter provided in paragraph (d) and disposed of by them under the conditions provided by the said Section and Annex.

The settlements provided for in this Article shall be effected according to the following principles and in accordance with the Annex to this Section:

(a) Each of the High Contracting Parties shall prohibit, as from the coming into force of the present Treaty, both the payment and the acceptance of payment of such debts, and also all communications between the interested parties with regard to the settlement of the said debts otherwise than through the Clearing Offices;

(b) Each of the High Contracting Parties shall be respectively responsible for the payment of such debts due by its nationals, except in the cases where before the war the debtor was in a state of bankruptcy or failure, or had given formal indication of insolvency or where the debt was due by a company whose business has been liquidated under emergency legislation during the war. Nevertheless, debts due by the inhabitants of territory invaded or occupied by the enemy before the Armistice will not be guaranteed by the States of which those territories form part;

(c) The sums due to the nationals of one of the High Contracting Parties by the nationals of an Opposing State will be debited to the Clearing Office of the country of the debtor, and paid to the creditor by the Clearing Office of the country of the creditor;

(d) Debts shall be paid or credited in the currency of such one of the Allied and Associated Powers, their colonies or protectorates, or the British Dominions or India, as may be concerned. If the debts are payable in some

other currency they shall be paid or credited in the currency of the country concerned, whether an Allied or Associated Power, Colony, Protectorate, British Dominion or India, at the pre-war rate of exchange.

For the purpose of this provision the pre-war rate of exchange shall be defined as the average cable transfer rate prevailing in the Allied or Associated country concerned during the month immediately preceding the outbreak of war between the said country concerned and Germany.

If a contract provides for a fixed rate of exchange governing the conversion of the currency in which the debt is stated into the currency of the Allied or Associated country concerned, then the above provisions concerning the rate of exchange shall not apply.

In the case of new States the currency in which and the rate of exchange at which debts shall be paid or credited shall be determined by the Reparation Commission provided for in Part VIII (Reparation);

(e) The provisions of this Article and of the Annex hereto shall not apply as between Germany on the one hand and any one of the Allied and Associated Powers, their colonies or protectorates, or any one of the British Dominions or India on the other hand, unless within a period of one month from the deposit of the ratification of the present Treaty by the Power in question, or of the ratification on behalf of such Dominion or of India, notice to that effect is given to Germany by the Government of such Allied or Associated Power or of such Dominion or of India as the case may be;

(f) The Allied and Associated Powers who have adopted this Article and the Annex hereto may agree between themselves to apply them to their respective nationals established in their territory so far as regards matters between their nationals and German nationals. In this case the payments made by application of this provision will be subject to arrangements between the Allied and Associated Clearing Offices concerned.

ANNEX.

1. Each of the High Contracting Parties will, within three months from the notification provided for in Article 296, paragraph (e), establish a Clearing Office for the collection and payment of enemy debts.

Local Clearing Offices may be established for any particular portion of the territories of the High Contracting Parties. Such local Clearing Offices may perform all the functions of a central Clearing Office in their respective districts, except that all transactions with the Clearing Office in the Opposing State must be effected through the central Clearing Office.

2. In this Annex the pecuniary obligations referred to in the first paragraph of Article 296 are described "as enemy debts", the persons from whom the same are due as "enemy debtors", the persons to whom they are due as "enemy creditors", the Clearing Office in the country of the creditor is called the "Creditor Clearing Office", and the Clearing Office in the country of the debtor is called the "Debtor Clearing Office."

3. The High Contracting Parties will subject contraventions of paragraph

(a) of Article 296 to the same penalties as are at present provided by their legislation for trading with the enemy. They will similarly prohibit within their territory all legal process relating to payment of enemy debts, except in accordance with the provisions of this Annex.

4. The Government guarantee specified in paragraph (b) of Article 296 shall take effect whenever, for any reason, a debt shall not be recoverable, except in a case where at the date of the outbreak of the war the debt was barred by the laws of prescription in force in the country of the debtor, or where the debtor was at that time in a state of bankruptcy or failure or had given formal indication of insolvency, or where the debt was due by a company whose business has been liquidated under emergency legislation during the war. In such case the procedure specified by this Annex shall apply to payment of the dividends.

The terms "bankruptcy" and "failure" refer to the application of legislation providing for such juridical conditions. The expression "formal indication of insolvency" bears the same meaning as it has in English law.

5. Creditors shall give notice to the Creditor Clearing Office within six months of its establishment of debts due to them, and shall furnish the Clearing Office with any documents and information required of them.

The High Contracting Parties will take all suitable measures to trace and punish collusion between enemy creditors and debtors. The Clearing Offices will communicate to one another any evidence and information which might help the discovery and punishment of such collusion.

The High Contracting Parties will facilitate as much as possible postal and telegraphic communication at the expense of the parties concerned and through the intervention of the Clearing Offices between debtors and creditors desirous of coming to an agreement as to the amount of their debt.

The Creditor Clearing Office will notify the Debtor Clearing Office of all debts declared to it. The Debtor Clearing Office will, in due course, inform the Creditor Clearing Office which debts are admitted and which debts are contested. In the latter case, the Debtor Clearing Office will give the grounds for the non-admission of debt.

6. When a debt has been admitted, in whole or in part, the Debtor Clearing Office will at once credit the Creditor Clearing Office with the amount admitted, and at the same time notify it of such credit.

7. The debt shall be deemed to be admitted in full and shall be credited forthwith to the Creditor Clearing Office unless within three months from the receipt of the notification or such longer time as may be agreed to by the Creditor Clearing Office notice has been given by the Debtor Clearing Office that it is not admitted.

8. When the whole or part of a debt is not admitted the two Clearing Offices will examine into the matter jointly and will endeavour to bring the parties to an agreement.

9. The Creditor Clearing Office will pay to the individual creditor the

sums credited to it out of the funds placed at its disposal by the Government of its country and in accordance with the conditions fixed by the said Government, retaining any sums considered necessary to cover risks, expenses or commissions.

10. Any person having claimed payment of an enemy debt which is not admitted in whole or in part shall pay to the clearing office, by way of fine, interest at 5 per cent. on the part not admitted. Any person having unduly refused to admit the whole or part of a debt claimed from him shall pay, by way of fine, interest at 5 per cent. on the amount with regard to which his refusal shall be disallowed.

Such interest shall run from the date of expiration of the period provided for in paragraph 7 until the date on which the claim shall have been disallowed or the debt paid.

Each Clearing Office shall in so far as it is concerned take steps to collect the fines above provided for, and will be responsible if such fines cannot be collected.

The fines will be credited to the other Clearing Office, which shall retain them as a contribution towards the cost of carrying out the present provisions.

11. The balance between the Clearing Offices shall be struck monthly and the credit balance paid in cash by the debtor State within a week.

Nevertheless, any credit balances which may be due by one or more of the Allied and Associated Powers shall be retained until complete payment shall have been effected of the sums due to the Allied or Associated Powers or their nationals on account of the war.

12. To facilitate discussion between the Clearing Offices each of them shall have a representative at the place where the other is established.

13. Except for special reasons all discussions in regard to claims will, so far as possible, take place at the Debtor Clearing Office.

14. In conformity with Article 296, paragraph (b), the High Contracting Parties are responsible for the payment of the enemy debts owing by their nationals.

The Debtor Clearing Office will therefore credit the Creditor Clearing Office with all debts admitted, even in case of inability to collect them from the individual debtor. The Governments concerned will, nevertheless, invest their respective Clearing Offices with all necessary powers for the recovery of debts which have been admitted.

As an exception, the admitted debts owing by persons having suffered injury from acts of war shall only be credited to the Creditor Clearing Office when the compensation due to the person concerned in respect of such injury shall have been paid.

15. Each Government will defray the expenses of the Clearing Office set up in its territory, including the salaries of the staff.

16. Where the two Clearing Offices are unable to agree whether a debt claimed is due, or in case of a difference between an enemy debtor and an

enemy creditor or between the Clearing Offices, the dispute shall either be referred to arbitration if the parties so agree under conditions fixed by agreement between them, or referred to the Mixed Arbitral Tribunal provided for in Section VI hereafter.

At the request of the Creditor Clearing Office the dispute may, however, be submitted to the jurisdiction of the Courts of the place of domicile of the debtor.

17. Recovery of sums found by the Mixed Arbitral Tribunal the Court, or the Arbitration Tribunal to be due shall be effected through the Clearing Offices as if these sums were debts admitted by the Debtor Clearing Office.

18. Each of the Governments concerned shall appoint an agent who will be responsible for the presentation to the Mixed Arbitral Tribunal of the cases conducted on behalf of its Clearing Office. This agent will exercise a general control over the representatives or counsel employed by its nationals.

Decisions will be arrived at on documentary evidence, but it will be open to the Tribunal to hear the parties in person, or according to their preference by their representatives approved by the two Governments, or by the agent referred to above, who shall be competent to intervene along with the party or to re-open and maintain a claim abandoned by the same.

19. The Clearing Offices concerned will lay before the Mixed Arbitral Tribunal all the information and documents in their possession, so as to enable the Tribunal to decide rapidly on the cases which are brought before it.

20. Where one of the parties concerned appeals against the joint decision of the two Clearing Offices he shall make a deposit against the costs, which deposit shall only be refunded when the first judgment is modified in favour of the appellant and in proportion to the success he may attain, his opponent in case of such a refund being required to pay an equivalent proportion of the costs and expenses. Security accepted by the Tribunal may be substituted for a deposit.

A fee of 5 per cent. of the amount in dispute shall be charged in respect of all cases brought before the Tribunal. This fee shall, unless the Tribunal directs otherwise, be borne by the unsuccessful party. Such fee shall be added to the deposit referred to. It is also independent of the security.

The Tribunal may award to one of the parties a sum in respect of the expenses of the proceedings.

Any sum payable under this paragraph shall be credited to the Clearing Office of the successful party as a separate item.

21. With a view to the rapid settlement of claims, due regard shall be paid in the appointment of all persons connected with the Clearing Offices or with the Mixed Arbitral Tribunal to their knowledge of the language of the other country concerned.

Each of the Clearing Offices will be at liberty to correspond with the other and to forward documents in its own language.

22. Subject to any special agreement to the contrary between the Governments concerned, debts shall carry interest in accordance with the following provisions:

Interest shall not be payable on sums of money due by way of dividend, interest or other periodical payments which themselves represent interest on capital.

The rate of interest shall be 5 per cent. per annum except in cases where, by contract, law or custom, the creditor is entitled to payment of interest at a different rate. In such cases the rate to which he is entitled shall prevail.

Interest shall run from the date of commencement of hostilities (or, if the sum of money to be recovered fell due during the war, from the date at which it fell due) until the sum is credited to the Clearing Office of the creditor.

Sums due by way of interest shall be treated as debts admitted by the Clearing Offices and shall be credited to the Creditor Clearing Office in the same way as such debts.

23. Where by decision of the Clearing Offices or the Mixed Arbitral Tribunal a claim is held not to fall within Article 296, the creditor shall be at liberty to prosecute the claim before the Courts or to take such other proceedings as may be open to him.

The presentation of a claim to the Clearing Office suspends the operation of any period of prescription.

24. The High Contracting Parties agree to regard the decisions of the Mixed Arbitral Tribunal as final and conclusive and to render them binding upon their nationals.

25 In any case where a Creditor Clearing Office declines to notify a claim to the Debtor Clearing Office, or to take any step provided for in this Annex, intended to make effective in whole or in part a request of which it has received due notice, the enemy creditor shall be entitled to receive from the Clearing Office a certificate setting out the amount of the claim, and shall then be entitled to prosecute the claim before the courts or to take such other proceedings as may be open to him.

SECTION IV.

PROPERTY, RIGHTS AND INTERESTS.

ARTICLE 297.

The question of private property, rights and interests in an enemy country shall be settled according to the principles laid down in this Section and to the provisions of the Annex hereto.

(a) The exceptional war measures and measures of transfer (defined in paragraph 3 of the Annex hereto) taken by Germany with respect to the property, rights and interests of nationals of Allied or Associated Powers, including companies and associations in which they are interested, when liquidation has not been completed, shall be immediately discontinued or

stayed and the property, rights and interests concerned restored to their owners, who shall enjoy full rights therein in accordance with the provisions of Article 298.

(b) Subject to any contrary stipulations which may be provided for in the present Treaty, the Allied and Associated Powers reserve the right to retain and liquidate all property, rights and interests belonging at the date of the coming into force of the present Treaty to German nationals, or companies controlled by them, within their territories, colonies, possessions and protectorates, including territories ceded to them by the present Treaty.

The liquidation shall be carried out in accordance with the laws of the Allied or Associated State concerned, and the German owner shall not be able to dispose of such property, rights or interests nor to subject them to any charge without the consent of that State.

German nationals who acquire *ipso facto* the nationality of an Allied or Associated Power in accordance with the provisions of the present Treaty will not be considered as German nationals within the meaning of this paragraph.

(c) The price or the amount of compensation in respect of the exercise of the right referred to in the preceding paragraph (b) will be fixed in accordance with the methods of sale or valuation adopted by the laws of the country in which the property has been retained or liquidated,

(d) As between the Allied and Associated Powers or their nationals on the one hand and Germany or her nationals on the other hand, all the exceptional war measures, or measures of transfer, or acts done or to be done in execution of such measures as defined in paragraphs 1 and 3 of the Annex hereto shall be considered as final and binding upon all persons except as regards the reservations laid down in the present Treaty.

(e) The nationals of Allied and Associated Powers shall be entitled to compensation in respect of damage or injury inflicted upon their property, rights or interests, including any company or association in which they are interested, in German territory as it existed on August 1, 1914, by the application either of the exceptional war measures or measures of transfer mentioned in paragraphs 1 and 3 of the Annex hereto. The claims made in this respect by such nationals shall be investigated, and the total of the compensation shall be determined by the Mixed Arbitral Tribunal provided for in Section VI or by an Arbitrator appointed by that Tribunal. This compensation shall be borne by Germany, and may be charged upon the property of German nationals within the territory or under the control of the claimant's State. This property may be constituted as a pledge for enemy liabilities under the conditions fixed by paragraph 4 of the Annex hereto. The payment of this compensation may be made by the Allied or Associated State, and the amount will be debited to Germany.

(f) Whenever a national of an Allied or Associated Power is entitled to property which has been subjected to a measure of transfer in German territory and expresses a desire for its restitution, his claim for compensation in accordance with paragraph (e) shall be satisfied by the restitution of the said property if it still exists in specie.

In such case Germany shall take all necessary steps to restore the evicted owner to the possession of his property, free from all encumbrances or burdens with which it may have been charged after the liquidation, and to indemnify all third parties injured by the restitution.

If the restitution provided for in this paragraph cannot be effected, private agreements arranged by the intermediation of the Powers concerned or the Clearing Offices provided for in the Annex to Section III may be made, in order to secure that the national of the Allied or Associated Power may secure compensation for the injury referred to in paragraph (e) by the grant of advantages or equivalents which he agrees to accept in place of the property, rights or interests of which he was deprived.

Through restitution in accordance with this Article, the price or the amount of compensation fixed by the application of paragraph (e) will be reduced by the actual value of the property restored, account being taken of compensation in respect of loss of use or deterioration.

(g) The rights conferred by paragraph (f) are reserved to owners who are nationals of Allied or Associated Powers within whose territory legislative measures prescribing the general liquidation of enemy property, rights or interests were not applied before the signature of the Armistice.

(h) Except in cases where, by application of paragraph (f), restitutions in specie have been made, the net proceeds of sales of enemy property, rights or interests wherever situated carried out either by virtue of war legislation, or by application of this Article, and in general all cash assets of enemies, shall be dealt with as follows:

(1) As regards Powers adopting Section III and the Annex thereto, the said proceeds and cash assets shall be credited to the Power of which the owner is a national, through the Clearing Office established thereunder; any credit balance in favour of Germany resulting therefrom shall be dealt with as provided in Article 243.

(2) As regards Powers not adopting Section III and the Annex thereto, the proceeds of the property, rights and interests, and the cash assets, of the nationals of Allied or Associated Powers held by Germany shall be paid immediately to the person entitled thereto or to his Government; the proceeds of the property, rights and interests, and the cash assets, of German nationals received by an Allied or Associated Power shall be subject to disposal by such Power in accordance with its laws and regulations and may be applied in payment of the claims and debts defined by this Article or paragraph 4 of the Annex hereto. Any property, rights and interests or proceeds thereof or cash assets not used as above provided may be retained by the said Allied or Associated Power and if retained the cash value thereof shall be dealt with as provided in Article 243.

In case of liquidations effected in new States, which are signatories of the present Treaty as Allied and Associated Powers, or in States which are not entitled to share in the Reparation payments to be made by Germany, the proceeds of liquidations effected by such States shall, subject to the rights of the Reparation Commission under the present Treaty, particularly

under Articles 235 and 260, be paid direct to the owner. If on the application of that owner, the Mixed Arbitral Tribunal, provided for by Section VI of this Part, or an arbitrator appointed by that Tribunal, is satisfied that the conditions of the sale or measures taken by the Government of the State in question outside its general legislation were unfairly prejudicial to the price obtained, they shall have discretion to award to the owner equitable compensation to be paid by that State.

(i) Germany undertakes to compensate her nationals in respect of the sale or retention of their property, rights or interests in Allied or Associated States.

(j) The amount of all taxes and imposts upon capital levied or to be levied by Germany on the property, rights and interests of the nationals of the Allied or Associated Powers from November 11, 1918, until three months from the coming into force of the present Treaty, or, in the case of property, rights or interests which have been subjected to exceptional measures of war, until restitution in accordance with the present Treaty, shall be restored to the owners.

ARTICLE 298.

Germany undertakes, with regard to the property, rights and interests, including companies and associations in which they were interested, restored to nationals of Allied and Associated Powers in accordance with the provisions of Article 297, paragraph (a) or (f) :

(a) to restore and maintain, except as expressly provided in the present Treaty, the property, rights and interests of the nationals of Allied or Associated Powers in the legal position obtaining in respect of the property, rights and interests of German nationals under the laws in force before the war ;

(b) not to subject the property, rights or interests of the nationals of the Allied or Associated Powers to any measures in derogation of property rights which are not applied equally to the property, rights and interests of German nationals, and to pay adequate compensation in the event of the application of these measures.

ANNEX.

1. In accordance with the provisions of Article 297, paragraph (d), the validity of vesting orders and of orders for the winding up of businesses or companies, and of any other orders, directions, decisions or instructions of any court or any department of the Government of any of the High Contracting Parties made or given, or purporting to be made or given, in pursuance of war legislation with regard to enemy property, rights and interests is confirmed. The interests of all persons shall be regarded as having been effectively dealt with by any order, direction, decision or instruction dealing with property in which they may be interested, whether or not such interests are specifically mentioned in the order, direction, decision, or instruction.

No question shall be raised as to the regularity of a transfer of any property, rights or interests dealt with in pursuance of any such order, direction, decision or instruction. Every action taken with regard to any property, business, or company, whether as regards its investigation, sequestration, compulsory administration, use, requisition, supervision, or winding up, the sale or management of property, rights or interests, the collection or discharge of debts, the payment of costs, charges or expenses, or any other matter whatsoever, in pursuance of orders, directions, decisions, or instructions of any court or of any department of the Government of any of the High Contracting Parties, made or given, or purporting to be made or given, in pursuance of war legislation with regard to enemy property, rights or interests, is confirmed. Provided that the provisions of this paragraph shall not be held to prejudice the titles to property, heretofore acquired in good faith and for value and in accordance with the laws of the country in which the property is situated by nationals of the Allied and Associated Powers.

The provisions of this paragraph do not apply to such of the above-mentioned measures as have been taken by the German authorities in invaded or occupied territory, nor to such of the above-mentioned measures as have been taken by Germany or the German authorities since November 11, 1918, all of which shall be void.

2. No claim or action shall be made or brought against any Allied or Associated Power or against any person acting on behalf of or under the direction of any legal authority or Department of the Government of such a Power by Germany or by any German national wherever resident in respect of any act or omission with regard to his property, rights or interests during the war or in preparation for the war. Similarly no claim or action shall be made or brought against any person in respect of any act or omission under or in accordance with the exceptional war measures, laws or regulations of any Allied or Associated Power.

3. In Article 297 and this Annex the expression "exceptional war measures" includes measures of all kinds, legislative, administrative, judicial or others, that have been taken or will be taken hereafter with regard to enemy property, and which have had or will have the effect of removing from the proprietors the power of disposition over their property, though without affecting the ownership, such as measures of supervision, of compulsory administration, and of sequestration; or measures which have had or will have as an object the seizure of, the use of, or the interference with enemy assets, for whatsoever motive, under whatsoever form or in whatsoever place. Acts in the execution of these measures include all detentions, instructions, orders or decrees of Government departments or courts applying these measures to enemy property, as well as acts performed by any person connected with the administration or the supervision of enemy property, such as the payment of debts, the collecting of credits, the payment of any costs, charges or expenses, or the collecting of fees.

Measures of transfer are those which have affected or will affect the ownership of enemy property by transferring it in whole or in part to a

person other than the enemy owner, and without his consent, such as measures directing the sale, liquidation, or devolution of ownership in enemy property, or the cancelling of titles or securities.

4. All property, rights and interests of German nationals within the territory of any Allied or Associated Power and the net proceeds of their sale, liquidation or other dealing therewith may be charged by that Allied or Associated Power in the first place with payment of amounts due in respect of claims by the nationals of that Allied or Associated Power with regard to their property, rights and interests, including companies and associations in which they are interested, in German territory, or debts owing to them by German nationals, and with payment of claims growing out of acts committed by the German Government or by any German authorities since July 31, 1914, and before that Allied or Associated Power entered into the war. The amount of such claims may be assessed by an arbitrator appointed by Mr. Gustave Ador, if he is willing, or if no such appointment is made by him, by an arbitrator appointed by the Mixed Arbitral Tribunal provided for in Section VI. They may be charged in the second place with payment of the amounts due in respect of claims by the nationals of such Allied or Associated Power with regard to their property, rights and interests in the territory of other enemy Powers, in so far as those claims are otherwise unsatisfied.

5. Notwithstanding the provisions of Article 297, where immediately before the outbreak of war a company incorporated in an Allied or Associated State had rights in common with a company controlled by it and incorporated in Germany to the use of trade-marks in third countries, or enjoyed the use in common with such company of unique means of reproduction of goods or articles for sale in third countries, the former company shall alone have the right to use these trade-marks in third countries to the exclusion of the German company, and these unique means of reproduction shall be handed over to the former company, notwithstanding any action taken under German war legislation with regard to the latter company or its business, industrial property or shares. Nevertheless, the former company, if requested, shall deliver the latter company derivative copies permitting the continuation of reproduction of articles for use within German territory.

6. Up to the time when restitution is carried out in accordance with Article 297, Germany is responsible for the conservation of property, rights and interests of the nationals of Allied or Associated Powers, including companies and associations in which they are interested, that have been subjected by her to exceptional war measures.

7. Within one year from the coming into force of the present Treaty the Allied or Associated Powers will specify the property, rights and interests over which they intend to exercise the right provided in Article 297, paragraph (f).

8. The restitution provided in Article 297 will be carried out by order of the German Government or of the authorities which have been substituted for it. Detailed accounts of the action of administrators shall be furnished

to the interested persons by the German authorities upon request, which may be made at any time after the coming into force of the present Treaty.

9. Until completion of the liquidation provided for by Article 297, paragraph (b), the property, rights and interests of German nationals will continue to be subject to exceptional war measures that have been or will be taken with regard to them.

10. Germany will, within six months from the coming into force of the present Treaty, deliver to each Allied or Associated Power all securities, certificates, deeds, or other documents of title held by its nationals and relating to property, rights or interests situated in the territory of that Allied or Associated Power, including any shares, stock, debentures, debenture stock, or other obligations of any company incorporated in accordance with the laws of that Power.

Germany will at any time on demand of any Allied or Associated Power furnish such information as may be required with regard to the property, rights and interests of German nationals within the territory of such Allied or Associated Power, or with regard to any transactions concerning such property, rights or interests effected since July 1, 1914.

11. The expression "cash assets" includes all deposits or funds established before or after the declaration of war, as well as all assets coming from deposits, revenues, or profits collected by administrators, sequestrators, or others from funds placed on deposit or otherwise, but does not include sums belonging to the Allied or Associated Powers or to their component States, Provinces, or Municipalities.

12. All investments wheresoever effected with the cash assets of nationals of the High Contracting Parties, including companies and associations in which such nationals were interested, by persons responsible for the administration of enemy properties or having control over such administration, or by order of such persons or of any authority whatsoever shall be annulled. These cash assets shall be accounted for irrespective of any such investment.

13. Within one month from the coming into force of the present Treaty, or on demand at any time, Germany will deliver to the Allied and Associated Powers all accounts, vouchers, records, documents and information of any kind which may be within German territory, and which concern the property, rights and interests of the nationals of those Powers, including companies and associations in which they are interested, that have been subjected to an exceptional war measure, or to a measure of transfer either in German territory or in territory occupied by Germany or her allies.

The controllers, supervisors, managers, administrators, sequestrators, liquidators and receivers shall be personally responsible under guarantee of the German Government for the immediate delivery in full of these accounts and documents, and for their accuracy.

14. The provisions of Article 297 and this Annex relating to property, rights and interests in an enemy country, and the proceeds of the liquidation thereof, apply to debts, credits and accounts, Section III regulating only the method of payment.

In the settlement of matters provided for in Article 297 between Germany and the Allied or Associated States, their colonies or protectorates, or any one of the British Dominions or India, in respect of any of which a declaration shall not have been made that they adopt Section III, and between their respective nationals, the provisions of Section III respecting the currency in which payment is to be made and the rate of exchange and of interest shall apply unless the Government of the Allied or Associated Power concerned shall within six months of the coming into force of the present Treaty notify Germany that the said provisions are not to be applied.

15. The provisions of Article 297 and this Annex apply to industrial, literary and artistic property which has been or will be dealt with in the liquidation of property, rights, interests, companies or business under war legislation by the Allied or Associated Powers, or in accordance with the stipulations of Article 297, paragraph (b).

SECTION V.

CONTRACTS, PRESCRIPTIONS, JUDGMENTS.

ARTICLE 299.

(a) Any contract concluded between enemies shall be regarded as having been dissolved as from the time when any two of the parties became enemies, except in respect of any debt or other pecuniary obligation arising out of any act done or money paid thereunder, and subject to the exceptions and special rules with regard to particular contracts or classes of contracts contained herein or in the Annex hereto.

(b) Any contract of which the execution shall be required in the general interest, within six months from the date of the coming into force of the present Treaty, by the Allied or Associated Governments of which one of the parties is a national, shall be excepted from dissolution under this Article.

When the execution of the contract thus kept alive would, owing to the alteration of trade conditions, cause one of the parties substantial prejudice the Mixed Arbitral Tribunal provided for by Section VI shall be empowered to grant to the prejudiced party equitable compensation.

(c) Having regard to the provisions of the constitution and law of the United States of America, of Brazil, and of Japan, neither the present Article, nor Article 300, nor the Annex hereto shall apply to contracts made between nationals of these States and German nationals; nor shall Article 305 apply to the United States of America or its nationals.

(d) The present Article and the annex hereto shall not apply to contracts the parties to which became enemies by reason of one of them being an inhabitant of territory of which the sovereignty has been transferred, if such party shall acquire under the present Treaty the nationality of an Allied or Associated Power, nor shall they apply to contracts between nationals of the Allied and Associated Powers between whom trading has

been prohibited by reason of one of the parties being in Allied or Associated territory in the occupation of the enemy.

(e) Nothing in the present Article or the annex hereto shall be deemed to invalidate a transaction lawfully carried out in accordance with a contract between enemies if it has been carried out with the authority of one of the belligerent Powers.

ARTICLE 300.

(a) All periods of prescription, or limitation of right of action, whether they began to run before or after the outbreak of war, shall be treated in the territory of the High Contracting Parties, so far as regards relations between enemies, as having been suspended for the duration of the war. They shall begin to run again at earliest three months after the coming into force of the present Treaty. This provision shall apply to the period prescribed for the presentation of interest or dividend coupons or for the presentation for repayment of securities drawn for repayment or repayable on any other ground.

(b) Where, on account of failure to perform any act or comply with any formality during the war, measures of execution have been taken in German territory to the prejudice of a national of an Allied or Associated Power, the claim of such national shall, if the matter does not fall within the competence of the Courts of an Allied or Associated Power, be heard by the Mixed Arbitral Tribunal provided for by Section VI.

(c) Upon the application of any interested person who is a national of an Allied or Associated Power the Mixed Arbitral Tribunal shall order the restoration of the rights which have been prejudiced by the measures of execution referred to in paragraph (b), wherever, having regard to the particular circumstances of the case, such restoration is equitable and possible.

If such restoration is inequitable or impossible the Mixed Arbitral Tribunal may grant compensation to the prejudiced party to be paid by the German Government.

(d) Where a contract between enemies has been dissolved by reason either of failure on the part of either party to carry out its provisions or of the exercise of a right stipulated in the contract itself the party prejudiced may apply to the Mixed Arbitral Tribunal for relief. The Tribunal will have the powers provided for in paragraph (c).

(e) The provisions of the preceding paragraphs of this Article shall apply to the nationals of Allied and Associated Powers who have been prejudiced by reason of measures referred to above taken by Germany in invaded or occupied territory, if they have not been otherwise compensated.

(f) Germany shall compensate any third party who may be prejudiced by any restitution or restoration ordered by the Mixed Arbitral Tribunal under the provisions of the preceding paragraphs of this Article.

(g) As regards negotiable instruments, the period of three months provided under paragraph (a) shall commence as from the date on which any

exceptional regulations applied in the territories of the interested Power with regard to negotiable instruments shall have definitely ceased to have force.

ARTICLE 301.

As between enemies no negotiable instrument made before the war shall be deemed to have become invalid by reason only of failure within the required time to present the instrument for acceptance or payment or to give notice of non-acceptance or non-payment to drawers or indorsers or to protest the instrument, nor by reason of failure to complete any formality during the war.

Where the period within which a negotiable instrument should have been presented for acceptance or for payment, or within which notice of non-acceptance or non-payment should have been given to drawer or indorser, or within which the instrument should have been protested, has elapsed during the war, and the party who should have presented or protested the instrument or have given notice of non-acceptance or non-payment has failed to do so during the war, a period of not less than three months from the coming into force of the present Treaty shall be allowed within which presentation, notice of non-acceptance or non-payment or protest may be made.

ARTICLE 302.

Judgements given by the Courts of an Allied or Associated Power in all cases which, under the present Treaty, they are competent to decide, shall be recognised in Germany as final, and shall be enforced without it being necessary to have them declared executory.

If a judgment in respect to any dispute which may have arisen has been given during the war by a German Court against a national of an Allied or Associated State in a case in which he was not able to make his defence, the Allied and Associated national who has suffered prejudice thereby shall be entitled to recover compensation, to be fixed by the Mixed Arbitral Tribunal provided for in Section VI.

At the instance of the national of the Allied or Associated Power the compensation above-mentioned may, upon order to that effect of the Mixed Arbitral Tribunal, be effected where it is possible by replacing the parties in the situation which they occupied before the judgment was given by the German Court.

The above compensation may likewise be obtained before the Mixed Arbitral Tribunal by the nationals of Allied or Associated Powers who have suffered prejudice by judicial measures taken in invaded or occupied territories, if they have not been otherwise compensated.

ARTICLE 303.

For the purpose of Sections III, IV, V and VII, the expression "during the war" means for each Allied or Associated Power the period between the

commencement of the state of war between that Power and Germany and the coming into force of the present Treaty.

ANNEX.

I. General Provisions.

1. Within the meaning of Articles 299, 300 and 301, the parties to a contract shall be regarded as enemies when trading between them shall have been prohibited by or otherwise become unlawful under laws, orders or regulations to which one of those parties was subject. They shall be deemed to have become enemies from the date when such trading was prohibited or otherwise became unlawful.

2. The following classes of contracts are excepted from dissolution by Article 299 and, without prejudice to the rights contained in Article 297 (b) of Section IV, remain in force subject to the application of domestic laws, orders or regulations made during the war by the Allied and Associated Powers and subject to the terms of the contracts:

(a) Contracts having for their object the transfer of estates or of real or personal property where the property therein had passed or the object had been delivered before the parties became enemies;

(b) Leases and agreements for leases of land and houses;

(c) Contracts of mortgage, pledge or lien;

(d) Concessions concerning mines, quarries or deposits;

(e) Contracts between individuals or companies and States, provinces, municipalities, or other similar juridical persons charged with administrative functions, and concessions granted by States, provinces, municipalities, or other similar juridical persons charged with administrative functions.

3. If the provisions of a contract are in part dissolved under Article 299, the remaining provisions of that contract shall, subject to the same application of domestic laws as is provided for in paragraph 2, continue in force if they are severable, but where they are not severable the contract shall be deemed to have been dissolved in its entirety.

II. Provisions relating to certain classes of Contracts.

Stock Exchange and Commercial Exchange Contracts.

4. (a) Rules made during the war by any recognised Exchange or Commercial Association providing for the closure of contracts entered into before the war by an enemy are confirmed by the High Contracting Parties, as also any action taken thereunder, provided:

(1) That the contract was expressed to be made subject to the rules of the Exchange or Association in question;

(2) That the rules applied to all persons concerned;

(3) That the conditions attaching to the closure were fair and reasonable.

(b) The preceding paragraph shall not apply to rules made during the occupation by Exchanges or Commercial Associations in the districts occupied by the enemy.

(c) The closure of contracts relating to cotton "futures", which were closed as on July 31, 1914, under the decision of the Liverpool Cotton Association, is also confirmed.

Security.

5. The sale of a security held for an unpaid debt owing by an enemy shall be deemed to have been valid irrespective of notice to the owner if the creditor acted in good faith and with reasonable care and prudence, and no claim by the debtor on the ground of such sale shall be admitted.

This stipulation shall not apply to any sale of securities effected by an enemy during the occupation in regions invaded or occupied by the enemy.

Negotiable Instruments.

6. As regards Powers which adopt Section III and the Annex thereto the pecuniary obligations existing between enemies and resulting from the issue of negotiable instruments shall be adjusted in conformity with the said Annex by the instrumentality of the Clearing Offices, which shall assume the rights of the holder as regards the various remedies open to him.

7. If a person has either before or during the war become liable upon a negotiable instrument in accordance with an undertaking given to him by a person who has subsequently become an enemy, the latter shall remain liable to indemnify the former in respect of his liability notwithstanding the outbreak of war.

III. Contracts of Insurance.

8. Contracts of insurance entered into by any person with another person who subsequently became an enemy will be dealt with in accordance with the following paragraphs.

Fire Insurance.

9. Contracts for the insurance of property against fire entered into by a person interested in such property with another person who subsequently became an enemy shall not be deemed to have been dissolved by the outbreak of war, or by the fact of the person becoming an enemy, or on account of the failure during the war and for a period of three months thereafter to perform his obligations under the contract, but they shall be dissolved at the date when the annual premium becomes payable for the first time after the expiration of a period of three months after the coming into force of the present Treaty.

A settlement shall be effected of unpaid premiums which became due during the war, or of claims for losses which occurred during the war.

10. Where by administrative or legislative action an insurance against fire effected before the war has been transferred during the war from the original

to another insurer, the transfer will be recognised and the liability of the original insurer will be deemed to have ceased as from the date of the transfer. The original insurer will, however, be entitled to receive on demand full information as to the terms of the transfer, and if it should appear that these terms were not equitable they shall be amended so far as may be necessary to render them equitable.

Furthermore, the insured shall, subject to the concurrence of the original insurer, be entitled to retransfer the contract to the original insurer as from the date of the demand.

Life Insurance.

11. Contracts of life insurance entered into between an insurer and a person who subsequently became an enemy shall not be deemed to have been dissolved by the outbreak of war, or by the fact of the person becoming an enemy.

Any sum which during the war became due upon a contract deemed not to have been dissolved under the preceding provision shall be recoverable after the war with the addition of interest at five per cent. per annum from the date of its becoming due up to the day of payment.

Where the contract has lapsed during the war owing to non-payment of premiums, or has become void from breach of the conditions of the contract, the assured or his representatives or the person entitled shall have the right at any time within twelve months of the coming into force of the present Treaty to claim from the insurer the surrender value of the policy at the date of its lapse or avoidance.

Where the contract has lapsed during the war owing to non-payment of premiums the payment of which has been prevented by the enforcement of measures of war, the assured or his representative or the persons entitled shall have the right to restore the contract on payment of the premiums with interest at five per cent. per annum within three months from the coming into force of the present Treaty.

12. Any Allied or Associated Power may within three months of the coming into force of the present Treaty cancel all the contracts of insurance running between a German insurance company and its nationals under conditions which shall protect its nationals from any prejudice.

To this end the German insurance company will hand over to the Allied or Associated Government concerned the proportion of its assets attributable to the policies so cancelled and will be relieved from all liability in respect of such policies. The assets to be handed over shall be determined by an actuary appointed by the Mixed Arbitral Tribunal.

13. Where contracts of life insurance have been entered into by a local branch of an insurance company established in a country which subsequently became an enemy country, the contract shall, in the absence of any stipulation to the contrary in the contract itself, be governed by the local law, but the insurer shall be entitled to demand from the insured or his representatives the refund of sums paid on claims made or enforced under measures taken

during the war, if the making or enforcement of such claims was not in accordance with the terms of the contract itself or was not consistent with the laws or treaties existing at the time when it was entered into.

14. In any case where by the law applicable to the contract the insurer remains bound by the contract notwithstanding the non-payment of premiums until notice is given to the insured of the termination of the contract, he shall be entitled where the giving of such notice was prevented by the war to recover the unpaid premiums with interest at five per cent. per annum from the insured.

15. Insurance contracts shall be considered as contracts of life assurance for the purpose of paragraphs 11 to 14 when they depend on the probabilities of human life combined with the rate of interest for the calculation of the reciprocal engagements between the two parties.

Marine Insurance.

16. Contracts of marine insurance including time policies and voyage policies entered into between an insurer and a person who subsequently became an enemy, shall be deemed to have been dissolved on his becoming an enemy, except in cases where the risk undertaken in the contract had attached before he became an enemy.

Where the risk had not attached, money paid by way of premium or otherwise shall be recoverable from the insurer.

Where the risk had attached effect shall be given to the contract notwithstanding the party becoming an enemy, and sums due under the contract either by way of premiums or in respect of losses shall be recoverable after the coming into force of the present Treaty.

In the event of any agreement being come to for the payment of interest on sums due before the war to or by the nationals of States which have been at war and recovered after the war, such interest shall in the case of losses recoverable under contracts of marine insurance run from the expiration of a period of one year from the date of the loss.

17. No contract of marine insurance with an insured person who subsequently became an enemy shall be deemed to cover losses due to belligerent action by the Power of which the insurer was a national or by the allies or associates of such Power.

18. Where it is shown that a person who had before the war entered into a contract of marine insurance with an insurer who subsequently became an enemy entered after the outbreak of war into a new contract covering the same risk with an insurer who was not an enemy, the new contract shall be deemed to be substituted for the original contract as from the date when it was entered into, and the premiums payable shall be adjusted on the basis of the original insurer having remained liable on the contract only up till the time when the new contract was entered into.

Other Insurances.

19. Contracts of insurance entered into before the war between an insurer

and a person who subsequently became an enemy, other than contracts dealt with in paragraphs 9 to 18, shall be treated in all respects on the same footing as contracts of fire insurance between the same persons would be dealt with under the said paragraphs.

Re-insurance.

20. All treaties of re-insurance with a person who became an enemy shall be regarded as having been abrogated by the person becoming an enemy, but without prejudice in the case of life or marine risks which had attached before the war to the right to recover payment after the war for sums due in respect of such risks.

Nevertheless, if, owing to invasion, it has been impossible for the re-insured to find another re-insurer, the treaty shall remain in force until three months after the coming into force of the present Treaty.

Where a re-insurance treaty becomes void under this paragraph, there shall be an adjustment of accounts between the parties in respect both of premiums paid and payable and of liabilities for losses in respect of life or marine risks which had attached before the war. In the case of risks other than those mentioned in paragraphs 11 to 18 the adjustment of accounts shall be made as at the date of the parties becoming enemies without regard to claims for losses which may have occurred since that date.

21. The provisions of the preceding paragraph will extend equally to re-insurances existing at the date of the parties becoming enemies of particular risks undertaken by the insurer in a contract of insurance against any risks other than life or marine risks.

22. Re-insurance of life risks effected by particular contracts and not under any general treaty remain in force.

The provisions of paragraph 12 apply to treaties of re-insurance of life insurance contracts in which enemy companies are the re-insurers.

23. In case of a re-insurance effected before the war of a contract of marine insurance, the cession of a risk which had been ceded to the re-insurer shall, if it had attached before the outbreak of war, remain valid and effect be given to the contract notwithstanding the outbreak of war; sums due under the contract of re-insurance in respect either of premiums or of losses shall be recoverable after the war.

24. The provisions of paragraphs 17 and 18 and the last part of paragraph 16 shall apply to contracts for the re-insurance of marine risks.

SECTION VI.

MIXED ARBITRAL TRIBUNAL.

ARTICLE 304.

(a) Within three months from the date of the coming into force of the present Treaty, a Mixed Arbitral Tribunal shall be established between each

of the Allied and Associated Powers on the one hand and Germany on the other hand. Each such Tribunal shall consist of three members. Each of the Governments concerned shall appoint one of these members. The President shall be chosen by agreement between the two Governments concerned.

In case of failure to reach agreement, the President of the Tribunal and two other persons either of whom may in case of need take his place, shall be chosen by the Council of the League of Nations, or, until this is set up, by M. Gustave Ador if he is willing. These persons shall be nationals of Powers that have remained neutral during the war.

If any Government does not proceed within a period of one month in case there is a vacancy to appoint a member of the Tribunal, such member shall be chosen by the other Government from the two persons mentioned above other than the President.

The decision of the majority of the members of the Tribunal shall be the decision of the Tribunal.

(b) The Mixed Arbitral Tribunals established pursuant to paragraph (a) shall decide all questions within their competence under Sections III, IV, V and VII.

In addition, all questions, whatsoever their nature, relating to contracts concluded before the coming into force of the present Treaty between nationals of the Allied and Associated Powers and German nationals shall be decided by the Mixed Arbitral Tribunal, always excepting questions which, under the laws of the Allied, Associated or Neutral Powers, are within the jurisdiction of the National Courts of those Powers. Such questions shall be decided by the National Courts in question, to the exclusion of the Mixed Arbitral Tribunal. The party who is a national of an Allied or Associated Power may nevertheless bring the case before the mixed Arbitral Tribunal if this is not prohibited by the laws of his country.

(c) If the number of cases justifies it, additional members shall be appointed and each Mixed Arbitral Tribunal shall sit in divisions. Each of these divisions will be constituted as above.

(d) Each Mixed Arbitral Tribunal will settle its own procedure except in so far as it is provided in the following Annex, and is empowered to award the sums to be paid by the loser in respect of the costs and expenses of the proceedings.

(e) Each Government will pay the remuneration of the member of the Mixed Arbitral Tribunal appointed by it and of any agent whom it may appoint to represent it before the Tribunal. The remuneration of the President will be determined by special agreement between the Governments concerned; and this remuneration and the joint expenses of each Tribunal will be paid by the two Governments in equal moieties.

(f) The High Contracting Parties agree that their courts and authorities shall render to the Mixed Arbitral Tribunals direct all the assistance in their power, particularly as regards transmitting notices and collecting evidence.

(g) The High Contracting Parties agree to regard the decisions of the

Mixed Arbitral Tribunal as final and conclusive, and to render them binding upon their nationals.

ANNEX.

1. Should one of the members of the Tribunal either die, retire, or be unable for any reason whatever to discharge his function, the same procedure will be followed for filling the vacancy as was followed for appointing him.

2. The Tribunal may adopt such rules of procedure as shall be in accordance with justice and equity and decide the order and time at which each party must conclude its arguments, and may arrange all formalities required for dealing with the evidence.

3. The agent and counsel of the parties on each side are authorized to present orally and in writing to the Tribunal arguments in support or in defence of each case.

4. The Tribunal shall keep record of the questions and cases submitted and the proceedings thereon, with the dates of such proceedings.

5. Each of the powers concerned may appoint a secretary. These secretaries shall act together as joint secretaries of the Tribunal and shall be subject to its direction. The Tribunal may appoint and employ any other necessary officer or officers to assist in the performance of its duties.

6. The Tribunal shall decide all questions and matters submitted upon such evidence and information as may be furnished by the parties concerned.

7. Germany agrees to give the Tribunal all facilities and information required by it for carrying out its investigations.

8. The language in which the proceedings shall be conducted shall, unless otherwise agreed, be English, French, Italian or Japanese, as may be determined by the Allied or Associated Power concerned.

9. The place and time for the meetings of each Tribunal shall be determined by the President of the Tribunal.

ARTICLE 305.

Whenever a competent court has given or gives a decision in a case covered by Sections III, IV, V or VII, and such decision is inconsistent with the provisions of such Sections, the party who is prejudiced by the decision shall be entitled to obtain redress which shall be fixed by the Mixed Arbitral Tribunal. At the request of the national of an Allied or Associated Power, the redress may, whenever possible, be effected by the Mixed Arbitral Tribunal directing the replacement of the parties in the position occupied by them before the judgment was given by the German court.

SECTION VII.

INDUSTRIAL PROPERTY.

ARTICLE 306.

Subject to the stipulations of the present Treaty, rights of industrial, literary and artistic property, as such property is defined by the International

Conventions of Paris and of Berne, mentioned in Article 286, shall be re-established or restored, as from the coming into force of the present Treaty, in the territories of the High Contracting parties, in favour of the persons entitled to the benefit of them at the moment when the state of war commenced or their legal representatives. Equally, rights which, except for the war, would have been acquired during the war in consequence of an application made for the protection of industrial property, or the publication of a literary or artistic work, shall be recognised and established in favour of those persons who would have been entitled thereto, from the coming into force of the present Treaty.

Nevertheless, all acts done by virtue of the special measures taken during the war under legislative, executive or administrative authority of any Allied or Associated Power in regard to the rights of German nationals in industrial, literary or artistic property shall remain in force and shall continue to maintain their full effect.

No claim shall be made or action brought by Germany or German nationals in respect of the use during the war by the Government of any Allied or Associated Power, or by any persons acting on behalf or with the assent of such Government, of any rights in industrial, literary or artistic property, nor in respect of the sale, offering for sale, or use of any products, articles or apparatus whatsoever to which such rights applied.

Unless the legislation of any one of the Allied or Associated Powers in force at the moment of the signature of the present Treaty otherwise directs sums due or paid in virtue of any act or operation resulting from the execution of the special measures mentioned in paragraph I of this Article shall be dealt with in the same way as other sums due to German nationals are directed to be dealt with by the present Treaty; and sums produced by any special measures taken by the German Government in respect of rights in industrial, literary or artistic property belonging to the nationals of the Allied or Associated Powers shall be considered and treated in the same way as other debts due from German nationals.

Each of the Allied and Associated Powers reserves to itself the right to impose such limitations, conditions or restrictions on rights of industrial, literary or artistic property (with the exception of trade-marks) acquired before or during the war, or which may be subsequently acquired in accordance with its legislation, by German nationals, whether by granting licenses, or by the working, or by preserving control over their exploitation, or in any other way, as may be considered necessary for national defence, or in the public interest, or for assuring the fair treatment by Germany of the rights of industrial, literary and artistic property held in German territory by its nationals, or for securing the due fulfillment of all the obligations undertaken by Germany in the present Treaty. As regards rights of industrial, literary and artistic property acquired after the coming into force of the present Treaty, the right so reserved by the Allied and Associated Powers shall only be exercised in cases where these limitations, conditions or restrictions may be considered necessary for national defence or in the public interest.

In the event of the application of the provisions of the preceding paragraph by any Allied or Associated Power, there shall be paid reasonable indemnities or royalties, which shall be dealt with in the same way as other sums due to German nationals are directed to be dealt with by the present Treaty.

Each of the Allied or Associated Powers reserves the right to treat as void and of no effect any transfer in whole or in part of or other dealing with rights of or in respect of industrial, literary or artistic property effected after August 1, 1914, or in the future, which would have the result of defeating the objects of the provisions of this Article.

The provisions of this Article shall not apply to rights in industrial, literary or artistic property which have been dealt with in the liquidation of businesses or companies under war legislation by the Allied or Associated Powers, or which may be so dealt with by virtue of Article 297, paragraph (b).

ARTICLE 307.

A minimum of one year after the coming into force of the present Treaty shall be accorded to the nationals of the High Contracting Parties, without extension fees or other penalty, in order to enable such persons to accomplish any act, fulfil any formality, pay any fees, and generally satisfy any obligation prescribed by the laws or regulations of the respective States relating to the obtaining, preserving, or opposing rights to, or in respect of, industrial property either acquired before August 1, 1914, or which, except for the war, might have been acquired since that date as a result of an application made before the war or during its continuance, but nothing in this Article shall give any right to reopen interference proceedings in the United States of America where a final hearing has taken place.

All rights in, or in respect of, such property which may have lapsed by reason of any failure to accomplish any act, fulfil any formality, or make any payment, shall revive, but subject in the case of patents and designs to the imposition of such conditions as each Allied or Associated Power may deem reasonably necessary for the protection of persons who have manufactured or made use of the subject matter of such property while the rights had lapsed. Further, where rights to patents or designs belonging to German nationals are revived under this Article, they shall be subject in respect of the grant of licences to the same provisions as would have been applicable to them during the war, as well as to all the provisions of the present Treaty.

The period from August 1, 1914, until the coming into force of the present Treaty shall be excluded in considering the time within which a patent should be worked or a trade mark or design used, and it is further agreed that no patent, registered trade mark or design in force on August 1, 1914, shall be subject to revocation or cancellation by reason only of the failure to work such patent or use such trade mark or design for two years after the coming into force of the present Treaty.

ARTICLE 308.

The rights of priority, provided by Article 4 of the International Convention for the Protection of Industrial Property of Paris, of March 20, 1883, revised at Washington in 1911 or by any other Convention or Statute, for the filing or registration of applications for patents or models of utility, and for the registration of trade marks, designs and models which had not expired on August 1, 1914, and those which have arisen during the war, or would have arisen but for the war, shall be extended by each of the High Contracting Parties in favour of all nationals of the other High Contracting Parties for a period of six months after the coming into force of the present Treaty.

Nevertheless, such extension shall in no way affect the right of any of the High Contracting Parties or of any person who before the coming into force of the present Treaty was *bona fide* in possession of any rights of industrial property conflicting with rights applied for by another who claims rights of priority in respect of them, to exercise such rights by itself or himself personally, or by such agents or licencees as derived their rights from it or him before the coming into force of the present Treaty; and such persons shall not be amenable to any action or other process of law in respect of infringement.

ARTICLE 309.

No action shall be brought and no claim made by persons residing or carrying on business within the territories of Germany on the one part and of the Allied or Associated Powers on the other, or persons who are nationals of such Powers respectively, or by any one deriving title during the war from such persons, by reason of any action which has taken place within the territory of the other party between the date of the declaration of war and that of the coming into force of the present Treaty, which might constitute an infringement of the rights of industrial property or rights of literary and artistic property, either existing at any time during the war or revived under the provisions of Articles 307 and 308.

Equally, no action for infringement of industrial, literary or artistic property rights by such persons shall at any time be permissible in respect of the sale or offering for sale for a period of one year after the signature of the present Treaty in the territories of the Allied or Associated Powers on the one hand or Germany on the other, of products or articles manufactured, or of literary or artistic works published, during the period between the declaration of war and the signature of the present Treaty, or against those who have acquired and continue to use them. It is understood, nevertheless, that this provision shall not apply when the possessor of the rights was domiciled or had an industrial or commercial establishment in the districts occupied by Germany during the war.

This Article shall not apply as between the United States of America on the one hand and Germany on the other.

ARTICLE 310.

Licences in respect of industrial, literary or artistic property concluded before the war between nationals of the Allied or Associated Powers or persons residing in their territory or carrying on business therein, on the one part, and German nationals, on the other part, shall be considered as cancelled as from the date of the declaration of war between Germany and the Allied or Associated Power. But, in any case, the former beneficiary of a contract of this kind shall have the right, within a period of six months after the coming into force of the present Treaty, to demand from the proprietor of the rights the grant of a new licence, the conditions of which, in default of agreement between the parties, shall be fixed by the duly qualified tribunal in the country under whose legislation the rights had been acquired, except in the case of licences held in respect of rights acquired under German law. In such cases the conditions shall be fixed by the Mixed Arbitral Tribunal referred to in Section VI of this Part. The tribunal may, if necessary, fix also the amount which it may deem just should be paid by reason of the use of the rights during the war.

No licence in respect of industrial, literary or artistic property, granted under the special war legislation of any Allied or Associated Power, shall be affected by the continued existence of any licence entered into before the war, but shall remain valid and of full effect, and a licence so granted to the former beneficiary of a licence entered into before the war shall be considered as substituted for such licence.

Where sums have been paid during the war by virtue of a licence or agreement concluded before the war in respect of rights of industrial property or for the reproduction or the representation of literary, dramatic or artistic works, these sums shall be dealt with in the same manner as other debts or credits of German nationals, as provided by the present Treaty.

This Article shall not apply as between the United States of America on the one hand and Germany on the other.

ARTICLE 311.

The inhabitants of territories separated from Germany by virtue of the present Treaty shall, notwithstanding this separation and the change of nationality consequent thereon, continue to enjoy in Germany all the rights in industrial, literary and artistic property to which they were entitled under German legislation at the time of the separation.

Rights of industrial, literary and artistic property which are in force in the territories separated from Germany under the present Treaty at the moment of the separation of these territories from Germany, or which will be re-established or restored in accordance with the provisions of Article 306 of the present Treaty, shall be recognized by the State to which the said territory is transferred and shall remain in force in that territory for the same period of time given them under the German law.

SECTION VIII.

SOCIAL AND STATE INSURANCE IN CEDED TERRITORY.

ARTICLE 312.

Without prejudice to the provisions contained in other Articles of the present Treaty, the German Government undertakes to transfer to any Power to which German territory in Europe is ceded, and to any Power administering former German territory as a mandatory under Article 22 of Part I (League of Nations), such portion of the reserves accumulated by the Government of the German Empire or of German States, or by public or private organisations under their control, as is attributable to the carrying on of Social or State Insurance in such territory.

The Powers to which these funds are transferred must apply them to the performance of the obligations arising from such insurances.

The conditions of the transfer will be determined by special conventions to be concluded between the German Government and the Governments concerned.

In case these special conventions are not concluded in accordance with the above paragraph within three months after the coming into force of the present Treaty, the conditions of transfer shall in each case be referred to a Commission of five members, one of whom shall be appointed by the German Government, one by the other interested Government and three by the Governing Body of the International Labour Office from the nationals of other States. This Commission shall by majority vote within three months after appointment adopt recommendations for submission to the Council of the League of Nations, and the decisions of the Council shall forthwith be accepted as final by Germany and the other Government concerned.

PART XI.

AERIAL NAVIGATION.

ARTICLE 313.

The aircraft of the Allied and Associated Powers shall have full liberty of passage and landing over and in the territory and territorial waters of Germany, and shall enjoy the same privileges as German aircraft, particularly in case of distress by land or sea.

ARTICLE 314.

The aircraft of the Allied and Associated Powers shall, while in transit to any foreign country whatever, enjoy the right of flying over the territory and territorial waters of Germany without landing, subject always to any regulations which may be made by Germany, and which shall be appli-

cable equally to the aircraft of Germany and to those of the Allied and Associated countries.

ARTICLE 315.

All aerodromes in Germany open to national public traffic shall be open for the aircraft of the Allied and Associated Powers, and in any such aerodrome such aircraft shall be treated on a footing of equality with German aircraft as regards charges of every description, including charges for landing and accommodation.

ARTICLE 316.

Subject to the present provisions, the rights of passage, transit and landing, provided for in Articles 313, 314 and 315, are subject to the observance of such regulations as Germany may consider it necessary to enact, but such regulations shall be applied without distinction to German aircraft and to those of the Allied and Associated countries.

ARTICLE 317.

Certificates of nationality, airworthiness, or competency, and licences, issued or recognised as valid by any of the Allied or Associated Powers, shall be recognised in Germany as valid and as equivalent to the certificates and licences issued by Germany.

ARTICLE 318.

As regards internal commercial air traffic, the aircraft of the Allied and Associated Powers shall enjoy in Germany most favoured nation treatment.

ARTICLE 319.

Germany undertakes to enforce the necessary measures to ensure that all German aircraft flying over her territory shall comply with the Rules as to lights and signals, Rules of the Air and Rules for Air Traffic on and in the neighbourhood of aerodromes, which have been laid down in the Convention relative to Aerial Navigation concluded between the Allied and Associated Powers.

ARTICLE 320.

The obligations imposed by the preceding provisions shall remain in force until January 1, 1923, unless before that date Germany shall have been admitted into the League of Nations or shall have been authorised, by consent of the Allied and Associated Powers, to adhere to the Convention relative to Aerial Navigation concluded between those Powers.

PART XII.

PORTS, WATERWAYS AND RAILWAYS.

SECTION I.

GENERAL PROVISIONS.

ARTICLE 321.

Germany undertakes to grant freedom of transit through her territories on the routes most convenient for international transit, either by rail, navigable waterway, or canal, to persons, goods, vessels, carriages, wagons and mails coming from or going to the territories of any of the Allied and Associated Powers (whether contiguous or not); for this purpose the crossing of territorial waters shall be allowed. Such persons, goods, vessels, carriages, wagons and mails shall not be subjected to any transit duty or to any undue delays or restrictions, and shall be entitled in Germany to national treatment as regards charges, facilities, and all other matters.

Goods in transit shall be exempt from all Customs or other similar duties. All charges imposed on transport in transit shall be reasonable, having regard to the conditions of the traffic. No charge, facility or restriction shall depend directly or indirectly on the ownership or on the nationality of the ship or other means of transport on which any part of the through journey has been, or is to be, accomplished.

ARTICLE 322.

Germany undertakes neither to impose nor to maintain any control over transmigration traffic through her territories beyond measures necessary to ensure that passengers are *bona fide* in transit; nor to allow any shipping company or any other private body, corporation or person interested in the traffic to take any part whatever in, or to exercise any direct or indirect influence over, any administrative service that may be necessary for this purpose.

ARTICLE 323.

Germany undertakes to make no discrimination or preference, direct or indirect, in the duties, charges and prohibitions relating to importations into or exportations from her territories, or, subject to the special engagements contained in the present Treaty, in the charges and conditions of transport of goods or persons entering or leaving her territories, based on the frontier crossed; or on the kind, ownership or flag of the means of transport (including aircraft) employed; or on the original or immediate place of departure of the vessel, wagon or aircraft or other means of transport employed, or its ultimate or intermediate destination; or on the

route of or places of trans-shipment on the journey; or on whether any port through which the goods are imported or exported is a German port or a port belonging to any foreign country or on whether the goods are imported or exported by sea, by land or by air.

Germany particularly undertakes not to establish against the ports and vessels of any of the Allied and Associated Powers any surtax or any direct or indirect bounty for export or import by German ports or vessels, or by those of another Power, for example by means of combined tariffs. She further undertakes that persons or goods passing through a port or using a vessel of any of the Allied and Associated Powers shall not be subjected to any formality or delay whatever to which such persons or goods would not be subjected if they passed through a German port or a port of any other Power, or used a German vessel or vessel of any other Power.

ARTICLE 324.

All necessary administrative and technical measures shall be taken to shorten, as much as possible, the transmission of goods across the German frontiers and to ensure their forwarding and transport from such frontiers, irrespective of whether such goods are coming from or going to the territories of the Allied and Associated Powers or are in transit from or to those territories, under the same material conditions in such matters as rapidity of carriage and care *en route* as are enjoyed by other goods of the same kind carried on German territory under similar conditions of transport.

In particular, the transport of perishable goods shall be promptly and regularly carried out, and the customs formalities shall be effected in such a way as to allow the goods to be carried straight through by trains which make connection.

ARTICLE 325.

The seaports of the Allied and Associated Powers are entitled to all favours and to all reduced tariffs granted on German railways or navigable waterways for the benefit of German ports or of any port of another Power.

ARTICLE 326.

Germany may not refuse to participate in the tariffs or combinations of tariffs intended to secure for ports of any of the Allied and Associated Powers advantages similar to those granted by Germany to her own ports or the ports of any other Power.

SECTION II.
NAVIGATION.

CHAPTER I.
FREEDOM OF NAVIGATION.

ARTICLE 327.

The nationals of any of the Allied and Associated Powers as well as their vessels and property shall enjoy in all German ports and on the inland navigation routes of Germany the same treatment in all respects as German nationals, vessels and property.

In particular the vessels of any one of the Allied or Associated Powers shall be entitled to transport goods of any description, and passengers, to or from any ports or places in German territory to which German vessels may have access, under conditions which shall not be more onerous than those applied in the case of national vessels; they shall be treated on a footing of equality with national vessels as regards port and harbour facilities and charges of every description, including facilities for stationing, loading and unloading, and duties and charges of tonnage, harbour, pilotage, lighthouse, quarantine, and all analogous duties and charges of whatsoever nature, levied in the name of or for the profit of the Government, public functionaries, private individuals or establishments of any kind.

In the event of Germany granting a preferential régime to any of the Allied or Associated Powers or to any other foreign Power, this régime shall be extended immediately and unconditionally to all the Allied and Associated Powers.

There shall be no impediment to the movement of persons or vessels other than those arising from prescriptions concerning customs, police, sanitation, emigration and immigration, and those relating to the import and export of prohibited goods. Such regulations must be reasonable and uniform and must not impede traffic unnecessarily.

CHAPTER II.
FREE ZONES IN PORTS.

ARTICLE 328.

The free zones existing in German ports on August 1, 1914, shall be maintained. These free zones, and any other free zones which may be established in German territory by the present Treaty, shall be subject to the régime provided for in the following Articles.

Goods entering or leaving a free zone shall not be subjected to any import or export duty, other than those provided for in Article 330.

Vessels and goods entering a free zone may be subjected to the charges established to cover expenses of administration, upkeep and improvement of the port, as well as to the charges for the use of various installations, provided that these charges shall be reasonable having regard to the expenditure incurred, and shall be levied in the conditions of equality provided for in Article 327.

Goods shall not be subjected to any other charge except a statistical duty which shall not exceed 1 per mille *ad valorem*, and which shall be devoted exclusively to defraying the expenses of compiling statements of the traffic in the port.

ARTICLE 329.

The facilities granted for the erection of warehouses, for packing and for unpacking goods, shall be in accordance with trade requirements for the time being. All goods allowed to be consumed in the free zone shall be exempt from duty, whether of excise or of any other description, apart from the statistical duty provided for in Article 328 above.

There shall be no discrimination in regard to any of the provisions of the present Article between persons belonging to different nationalities or between goods of different origin or destination.

ARTICLE 330.

Import duties may be levied on goods leaving the free zone for consumption in the country on the territory of which the port is situated. Conversely, export duties may be levied on goods coming from such country and brought into the free zone. These import and export duties shall be levied on the same basis and at the same rates as similar duties levied at the other Customs frontiers of the country concerned. On the other hand, Germany shall not levy, under any denomination, any import, export or transit duty on goods carried by land or water across her territory to or from the free zone from or to any other State.

Germany shall draw up the necessary regulations to secure and guarantee such freedom of transit over such railways and waterways in her territory as normally give access to the free zone.

CHAPTER III.

CLAUSES RELATING TO THE ELBE, THE ODER, THE NIEMEN (RUSSTROM-MEMEL-NIEMEN) AND THE DANUBE.

(1)—General Clauses.

ARTICLE 331.

The following rivers are declared international:

- the Elbe (*Labe*) from its confluence with the Vltava (*Moldau*), and
- the Vltava (*Moldau*) from Prague;

the Oder (*Odra*) from its confluence with the Oppa;
the Niemen (*Russstrom-Memel-Niemen*) from Grodno;
the Danube from Ulm;

and all navigable parts of these river systems which naturally provide more than one State with access to the sea, with or without transshipment from one vessel to another; together with lateral canals and channels constructed either to duplicate or to improve naturally navigable sections of the specified river systems, or to connect two naturally navigable sections of the same river.

The same shall apply to the Rhine-Danube navigable waterway, should such a waterway be constructed under the conditions laid down in Article 353.

ARTICLE 332.

On the waterways declared to be international in the preceding Article, the nationals, property and flags of all Powers shall be treated on a footing of perfect equality, no distinction being made to the detriment of the nationals, property or flag of any Power between them and the nationals, property or flag of the riparian State itself or of the most favoured nation.

Nevertheless, German vessels shall not be entitled to carry passengers or goods by regular services between the ports of any Allied or Associated Power, without special authority from such Power.

ARTICLE 333.

Where such charges are not precluded by any existing conventions, charges varying on different sections of a river may be levied on vessels using the navigable channels or their approaches, provided that they are intended solely to cover equitably the cost of maintaining in a navigable condition, or of improving, the river and its approaches, or to meet expenditure incurred in the interests of navigation. The schedule of such charges shall be calculated on the basis of such expenditure and shall be posted up in the ports. These charges shall be levied in such a manner as to render any detailed examination of cargoes unnecessary, except in cases of suspected fraud or contravention.

ARTICLE 334.

The transit of vessels, passengers and goods on these waterways shall be effected in accordance with the general conditions prescribed for transit in Section I above.

When the two banks of an international river are within the same State goods in transit may be placed under seal or in the custody of customs agents. When the river forms a frontier goods and passengers in transit shall be exempt from all customs formalities; the loading and unloading of goods, and the embarkation and disembarkation of passengers, shall only take place in the ports specified by the riparian State.

ARTICLE 335.

No dues of any kind other than those provided for in the present Part shall be levied along the course or at the mouth of these rivers.

This provision shall not prevent the fixing by the riparian States of customs, local octroi or consumption duties, or the creation of reasonable and uniform charges levied in the ports, in accordance with public tariffs, for the use of cranes, elevators, quays, warehouses, etc.

ARTICLE 336.

In default of any special organisation for carrying out the works connected with the upkeep and improvement of the international portion of a navigable system, each riparian State shall be bound to take suitable measures to remove any obstacle or danger to navigation and to ensure the maintenance of good conditions of navigation.

If a State neglects to comply with this obligation any riparian State, or any State represented on the International Commission, if there is one, may appeal to the tribunal instituted for this purpose by the League of Nations.

ARTICLE 337.

The same procedure shall be followed in the case of a riparian State undertaking any works of a nature to impede navigation in the international section. The tribunal mentioned in the preceding Article shall be entitled to enforce the suspension or suppression of such works, making due allowance in its decisions for all rights in connection with irrigation, water-power, fisheries, and other national interests, which, with the consent of all the riparian States or of all the States represented on the International Commission, if there is one, shall be given priority over the requirements of navigation.

Appeal to the tribunal of the League of Nations does not require the suspension of the works.

ARTICLE 338.

The régime set out in Articles 332 to 337 above shall be superseded by one to be laid down in a General Convention drawn up by the Allied and Associated Powers, and approved by the League of Nations, relating to the waterways recognised in such Convention as having an international character. This Convention shall apply in particular to the whole or part of the above-mentioned river systems of the Elbe (*Labe*), the Oder (*Odra*), the Niemen (*Russstrom-Memel-Niemen*), and the Danube, and such other parts of these river systems as may be covered by a general definition.

Germany undertakes, in accordance with the provisions of Article 379, to adhere to the said General Convention as well as to all projects prepared in accordance with Article 343 below for the revision of existing international agreements and regulations.

ARTICLE 339.

Germany shall cede to the Allied and Associated Powers concerned, within a maximum period of three months from the date on which notification shall be given her, a proportion of the tugs and vessels remaining registered in the ports of the river systems referred to in Article 331 after the deduction of those surrendered by way of restitution or reparation. Germany shall in the same way cede material of all kinds necessary to the Allied and Associated Powers concerned for the utilisation of those river systems.

The number of the tugs and boats, and the amount of the material so ceded, and their distribution, shall be determined by an arbitrator or arbitrators nominated by the United States of America, due regard being had to the legitimate needs of the parties concerned, and particularly to the shipping traffic during the five years preceding the war.

All craft so ceded shall be provided with their fittings and gear, shall be in a good state of repair and in condition to carry goods, and shall be selected from among those most recently built.

The cessions provided for in the present Article shall entail a credit of which the total amount, settled in a lump sum by the arbitrator or arbitrators, shall not in any case exceed the value of the capital expended in the initial establishment of the material ceded, and shall be set off against the total sums due from Germany; in consequence, the indemnification of the proprietors shall be a matter for Germany to deal with.

(2) *Special Clauses relating to the Elbe, the Oder and the Niemen (Russtrom-Memel-Niemen).*

ARTICLE 340.

The Elbe (*Labe*) shall be placed under the administration of an International Commission which shall comprise:

- 4 representatives of the German States bordering on the river;
- 2 representatives of the Czecho-Slovak State;
- 1 representative of Great Britain;
- 1 representative of France;
- 1 representative of Italy;
- 1 representative of Belgium.

Whatever be the number of members present, each delegation shall have the right to record a number of votes equal to the number of representatives allotted to it.

If certain of these representatives cannot be appointed at the time of the coming into force of the present Treaty, the decisions of the Commission shall nevertheless be valid.

ARTICLE 341.

The Oder (*Odra*) shall be placed under the administration of an International Commission, which shall comprise:

- 1 representative of Poland;
- 3 representatives of Prussia;
- 1 representative of the Czecho-Slovak State;
- 1 representative of Great Britain;
- 1 representative of France;
- 1 representative of Denmark;
- 1 representative of Sweden.

If certain of these representatives cannot be appointed at the time of the coming into force of the present Treaty, the decisions of the Commission shall nevertheless be valid.

ARTICLE 342.

On a request being made to the League of Nations by any riparian State, the Niemen (*Russstrom-Memel-Niemen*) shall be placed under the administration of an International Commission, which shall comprise one representative of each riparian State, and three representatives of other States specified by the League of Nations.

ARTICLE 343.

The International Commissions referred to in Articles 340 and 341 shall meet within three months of the date of the coming into force of the present Treaty. The International Commission referred to in Article 342 shall meet within three months from the date of the request made by a riparian State. Each of these Commissions shall proceed immediately to prepare a project for the revision of the existing international agreements and regulations, drawn up in conformity with the General Convention referred to in Article 338, should such Convention have been already concluded. In the absence of such Convention, the project for revision shall be in conformity with the principles of Articles 332 to 337 above.

ARTICLE 344.

The projects referred to in the preceding Article shall, *inter alia*:

- (a) designate the headquarters of the International Commission, and prescribe the manner in which its President is to be nominated;
- (b) specify the extent of the Commission's powers, particularly in regard to the execution of works of maintenance, control, and improvement on the the river system, the financial régime, the fixing and collection of charges, and regulations for navigation;
- (c) define the sections of the river or its tributaries to which the international régime shall be applied.

ARTICLE 345.

The international agreements and regulations at present governing the navigation of the Elbe (*Labe*), the Oder (*Odra*), and the Niemen (*Russ-*

strom-Memel-Niemen) shall be provisionally maintained in force until the ratification of the above-mentioned projects. Nevertheless, in all cases where such agreements and regulations in force are in conflict with the provisions of Articles 332 to 337 above, or of the General Convention to be concluded, the latter provisions shall prevail.

(3) *Special Clauses relating to the Danube.*

ARTICLE 346.

The European Commission of the Danube reassumes the powers it possessed before the war. Nevertheless, as a provisional measure, only representatives of Great Britain, France, Italy and Roumania shall constitute this Commission.

ARTICLE 347.

From the point where the competence of the European Commission ceases, the Danube system referred to in Article 331 shall be placed under the administration of an International Commission composed as follows:

2 representatives of German riparian States;

1 representative of each other riparian State;

1 representative of each non-riparian State represented in the future on the European Commission of the Danube.

If certain of these representatives cannot be appointed at the time of the coming into force of the present Treaty, the decisions of the Commission shall nevertheless be valid.

ARTICLE 348.

The International Commission provided for in the preceding Article shall meet as soon as possible after the coming into force of the present Treaty, and shall undertake provisionally the administration of the river in conformity with the provisions of Articles 332 to 337, until such time as a definitive statute regarding the Danube is concluded by the Powers nominated by the Allied and Associated Powers.

ARTICLE 349.

Germany agrees to accept the régime which shall be laid down for the Danube by a Conference of the Powers nominated by the Allied and Associated Powers, which shall meet within one year after the coming into force of the present Treaty, and at which German representatives may be present.

ARTICLE 350.

The mandate given by Article 57 of the Treaty of Berlin of July 13, 1878, to Austria-Hungary, and transferred by her to Hungary, to carry out works at the Iron Gates, is abrogated. The Commission entrusted with the administration of this part of the river shall lay down provisions for the settlement

of accounts subject to the financial provisions of the present Treaty. Charges which may be necessary shall in no case be levied by Hungary.

ARTICLE 351.

Should the Czecho-Slovak State, the Serb-Croat-Slovene State or Roumania, with the authorisation of or under mandate from the International Commission, undertake maintenance, improvement, weir, or other works on a part of the river system which forms a frontier, these States shall enjoy on the opposite bank, and also on the part of the bed which is outside their territory, all necessary facilities for the survey, execution and maintenance of such works.

ARTICLE 352.

Germany shall be obliged to make to the European Commission of the Danube all restitutions, reparations and indemnities for damages inflicted on the Commission during the war.

ARTICLE 353.

Should a deep-draught Rhine-Danube navigable waterway be constructed, Germany undertakes to apply thereto the régime prescribed in Articles 332 to 338.

CHAPTER IV.

CLAUSES RELATING TO THE RHINE AND THE MOSELLE.

ARTICLE 354.

As from the coming into force of the present Treaty, the Convention of Mannheim of October 17, 1868, together with the Final Protocol thereof, shall continue to govern navigation on the Rhine, subject to the conditions hereinafter laid down.

In the event of any provisions of the said Convention being in conflict with those laid down by the General Convention referred to in Article 338 (which shall apply to the Rhine) the provisions of the General Convention shall prevail.

Within a maximum period of six months from the coming into force of the present Treaty, the Central Commission referred to in Article 355 shall meet to draw up a project of revision of the Convention of Mannheim. This project shall be drawn up in harmony with the provisions of the General Convention referred to above, should this have been concluded by that time, and shall be submitted to the Powers represented on the Central Commission. Germany hereby agrees to adhere to the project so drawn up.

Further, the modifications set out in the following Articles shall immediately be made in the Convention of Mannheim.

The Allied and Associated Powers reserve to themselves the right to

arrive at an understanding in this connection with Holland, and Germany hereby agrees to accede if required to any such understanding.

ARTICLE 355.

The Central Commission provided for in the Convention of Mannheim shall consist of nineteen members, viz.:

- 2 representatives of the Netherlands;
- 2 representatives of Switzerland;
- 4 representatives of German riparian States;
- 4 representatives of France, which in addition shall appoint the President of the Commission;
- 2 representatives of Great Britain;
- 2 representatives of Italy;
- 2 representatives of Belgium.

The headquarters of the Central Commission shall be at Strasburg.

Whatever be the number of members present, each Delegation shall have the right to record a number of votes equal to the number of representatives allotted to it.

If certain of these representatives cannot be appointed at the time of the coming into force of the present Treaty, the decisions of the Commission shall nevertheless be valid.

ARTICLE 356.

Vessels of all nations, and their cargoes, shall have the same rights and privileges as those which are granted to vessels belonging to the Rhine navigation, and to their cargoes.

None of the provisions contained in Articles 15 to 20 and 26 of the above-mentioned Convention of Mannheim, in Article 4 of the Final Protocol thereof, or in later Conventions, shall impede the free navigation of vessels and crews of all nations on the Rhine and on waterways to which such Conventions apply, subject to compliance with the regulations concerning pilotage and other police measures drawn up by the Central Commission.

The provisions of Article 22 of the Convention of Mannheim and of Article 5 of the Final Protocol thereof shall be applied only to vessels registered on the Rhine. The Central Commission shall decide on the steps to be taken to ensure that other vessels satisfy the conditions of the general regulations applying to navigation on the Rhine.

ARTICLE 357.

Within a maximum period of three months from the date on which notification shall be given, Germany shall cede to France tugs and vessels, from among those remaining registered in German Rhine ports after the deduction of those surrendered by way of restitution or reparation, or shares in German Rhine navigation companies.

When vessels and tugs are ceded, such vessels and tugs, together with their fittings and gear, shall be in good state of repair, shall be in condition to carry on commercial traffic on the Rhine, and shall be selected from among those most recently built.

The same procedure shall be followed in the matter of the cession by Germany to France of:

(1) the installations, berthing and anchorage accomodation, platforms, docks, warehouses, plant, etc., which German subjects or German companies owned on August 1, 1914, in the port of Rotterdam, and

(2) the shares or interests which Germany or German nationals possessed in such installations at the same date.

The amount and specifications of such cessions shall be determined within one year of the coming into force of the present Treaty by an arbitrator or arbitrators appointed by the United States of America, due regard being had to the legitimate needs of the parties concerned.

The cessions provided for in the present Article shall entail a credit of which the total amount, settled in a lump sum by the arbitrator or arbitrators mentioned above, shall not in any case exceed the value of the capital expended in the initial establishment of the ceded material and installations, and shall be set off against the total sums due from Germany; in consequence, the indemnification of the proprietors shall be a matter for Germany to deal with.

ARTICLE 358.

Subject to the obligation to comply with the provisions of the Convention of Mannheim or of the Convention which may be substituted therefor, and to the stipulations of the present Treaty, France shall have on the whole course of the Rhine included between the two extreme points of the French frontiers:

- (a) the right to take water from the Rhine to feed navigation and irrigation canals (constructed or to be constructed) or for any other purpose, and to execute on the German bank all works necessary for the exercise of this right;
- (b) the exclusive right to the power derived from works of regulation on the river, subject to the payment to Germany of the value of half the power actually produced, this payment, which will take into account the cost of the works necessary for producing the power, being made either in money or in power and in default of agreement being determined by arbitration. For this purpose France alone shall have the right to carry out in this part of the river all works of regulation (weirs or other works) which she may consider necessary for the production of power. Similarly, the right of taking water from the Rhine is accorded to Belgium to feed the Rhine-Meuse navigable waterway provided for below.

The exercise of the rights mentioned under (a) and (b) of the present Article shall not interfere with navigability nor reduce the facilities for

navigation, either in the bed of the Rhine or in the derivations which may be substituted therefor, nor shall it involve any increase in the tolls formerly levied under the Convention in force. All proposed schemes shall be laid before the Central Commission in order that that Commission may assure itself that these conditions are complied with.

To ensure the proper and faithful execution of the provisions contained in (a) and (b) above, Germany:

(1) binds herself not to undertake or to allow the construction of any lateral canal or any derivation on the right bank of the river opposite the French frontiers;

(2) recognises the possession by France of the right of support on and the right of way over all lands situated on the right bank which may be required in order to survey, to build, and to operate weirs which France, with the consent of the Central Commission, may subsequently decide to establish. In accordance with such consent, France shall be entitled to decide upon and fix the limits of the necessary sites, and she shall be permitted to occupy such lands after a period of two months after simple notification, subject to the payment by her to Germany of indemnities of which the total amount shall be fixed by the Central Commission. Germany shall make it her business to indemnify the proprietors whose property will be burdened with such servitudes or permanently occupied by the works.

Should Switzerland so demand, and if the Central Commission approves, the same right shall be accorded to Switzerland for the part of the river forming her frontier with other riparian States;

(3) shall hand over to the French Government, during the month following the coming into force of the present Treaty, all projects, designs, drafts of concessions and of specifications concerning the regulation of the Rhine for any purpose whatever which have been drawn up or received by the Governments of Alsace-Lorraine or of the Grand Duchy of Baden.

ARTICLE 359.

Subject to the preceding provisions, no works shall be carried out in the bed or on either bank of the Rhine where it forms the boundary of France and Germany without the previous approval of the Central Commission or of its agents.

ARTICLE 360.

France reserves the option of substituting herself as regards the rights and obligations resulting from agreements arrived at between the Government of Alsace-Lorraine and the Grand Duchy of Baden concerning the works to be carried out on the Rhine; she may also denounce such agreements within a term of five years dating from the coming into force of the present Treaty.

France shall also have the option of causing works to be carried out which may be recognised as necessary by the Central Commission for the upkeep or improvement of the navigability of the Rhine above Mannheim.

ARTICLE 361.

Should Belgium within a period of 25 years from the coming into force of the present Treaty decide to create a deep-draught Rhine-Meuse navigable waterway, in the region of Ruhrort, Germany shall be bound to construct, in accordance with plans to be communicated to her by the Belgian Government, after agreement with the Central Commission, the portion of this navigable waterway situated within her territory.

The Belgian Government shall, for this purpose, have the right to carry out on the ground all necessary surveys.

Should Germany fail to carry out all or part of these works, the Central Commission shall be entitled to carry them out instead; and, for this purpose, the Commission may decide upon and fix the limits of the necessary sites and occupy the ground after a period of two months after simple notification, subject to the payment of indemnities to be filed by it and paid by Germany.

This navigable waterway shall be placed under the same administrative régime as the Rhine itself, and the division of the cost of initial construction, including the above indemnities, among the States crossed thereby shall be made by the Central Commission.

ARTICLE 362.

Germany hereby agrees to offer no objection to any proposals of the Central Rhine Commission for extending its jurisdiction:

(1) to the Moselle below the Franco-Luxemburg frontier down to the Rhine, subject to the consent of Luxemburg;

(2) to the Rhine above Basle up to the Lake of Constance, subject to the consent of Switzerland;

(3) to the lateral canals and channels which may be established either to duplicate or to improve naturally navigable sections of the Rhine or the Moselle, or to connect two naturally navigable sections of these rivers, and also any other parts of the Rhine river system which may be covered by the General Convention provided for in Article 338 above.

CHAPTER V.

CLAUSES GIVING TO THE CZECHO-SLOVAK STATE THE USE OF NORTHERN PORTS.

ARTICLE 363.

In the ports of Hamburg and Stettin Germany shall lease to the Czecho-Slovak State, for a period of 99 years, areas which shall be placed under the general régime of free zones and shall be used for the direct transit of goods coming from or going to that State.

ARTICLE 364.

The delimitation of these areas, and their equipment, their exploitation, and in general all conditions for their utilisation, including the amount of the rental, shall be decided by a Commission consisting of one delegate of Germany, one delegate of the Czecho-Slovak State and one delegate of Great Britain. These conditions shall be susceptible of revision every ten years in the same manner.

Germany declares in advance that she will adhere to the decisions so taken.

SECTION III.

RAILWAYS.

CHAPTER I.

CLAUSES RELATING TO INTERNATIONAL TRANSPORT.

ARTICLE 365.

Goods coming from the territories of the Allied and Associated Powers, and going to Germany, or in transit through Germany from or to the territories of the Allied and Associated Powers, shall enjoy on the German railways as regards charges to be collected (rebates and drawbacks being taken into account) facilities, and all other matters, the most favourable treatment applied to goods of the same kind carried on any German lines, either in internal traffic, or for export, import or in transit, under similar conditions of transport, for example as regards length of route. The same rule shall be applied, on the request of one or more of the Allied and Associated Powers, to goods specially designated by such Power or Powers coming from Germany and going to their territories.

International tariffs established in accordance with the rates referred to in the preceding paragraph and involving through waybills shall be established when one of the Allied and Associated Powers shall require it from Germany.

ARTICLE 366.

From the coming into force of the present Treaty the High Contracting Parties shall renew, in so far as concerns them and under the reserves indicated in the second paragraph of the present Article, the conventions and arrangements signed at Berne on October 14, 1890, September 20, 1893, July 16, 1895, June 16, 1898, and September 19, 1906, regarding the transportation of goods by rail.

If within five years from the date of the coming into force of the present Treaty a new convention for the transportation of passengers, luggage and goods by rail shall have been concluded to replace the Berne Convention of October 14, 1890, and the subsequent additions referred to above, this new convention and the supplementary provisions for international transport by

rail which may be based on it shall bind Germany, even if she shall have refused to take part in the preparation of the convention or to subscribe to it. Until a new convention shall have been concluded, Germany shall conform to the provisions of the Berne Convention and the subsequent additions referred to above, and to the current supplementary provisions.

ARTICLE 367.

Germany shall be bound to co-operate in the establishment of through ticket services (for passengers and their luggage) which shall be required by any of the Allied and Associated Powers to ensure their communication by rail with each other and with all other countries by transit across the territories of Germany; in particular Germany shall, for this purpose, accept trains and carriages coming from the territories of the Allied and Associated Powers and shall forward them with a speed at least equal to that of her best long-distance trains on the same lines. The rates applicable to such through services shall not in any case be higher than the rates collected on German internal services for the same distance, under the same conditions of speed and comfort.

The tariffs applicable under the same conditions of speed and comfort to the transportation of emigrants going to or coming from ports of the Allied and Associated Powers and using the German railways shall not be at a higher kilometric rate than the most favourable tariffs (drawbacks and rebates being taken into account) enjoyed on the said railways by emigrants going to or coming from any other ports.

ARTICLE 368.

Germany shall not apply specially to such through services, or to the transportation of emigrants going to or coming from the ports of the Allied and Associated Powers, any technical, fiscal or administrative measures, such as measures of customs examination, general police, sanitary police, and control, the result of which would be to impede or delay such services.

ARTICLE 369.

In case of transport partly by rail and partly by internal navigation, with or without through way-bill, the preceding Articles shall apply to the part of the journey performed by rail.

CHAPTER II.

ROLLING-STOCK.

ARTICLE 370.

Germany undertakes that German wagons shall be fitted with apparatus allowing:

- (1) of their inclusion in goods trains on the lines of such of the Allied

and Associated Powers as are parties to the Berne Convention of May 15, 1886, as modified on May 18, 1907, without hampering the action of the continuous brake which may be adopted in such countries within ten years of the coming into force of the present Treaty, and

(2) of the acceptance of wagons of such countries in all goods trains on the German lines.

The rolling stock of the Allied and Associated Powers shall enjoy on the German lines the same treatment as German rolling stock as regards movement, upkeep and repairs.

CHAPTER III.

CESSIONS OF RAILWAY LINES.

ARTICLE 371.

Subject to any special provisions concerning the cession of ports, waterways and railways situated in the territories over which Germany abandons her sovereignty, and to the financial conditions relating to the concessionaires and the pensioning of the personnel, the cession of railways will take place under the following conditions:

(1) The works and installations of all the railroads shall be handed over complete and in good condition.

(2) When a railway system possessing its own rolling-stock is handed over in its entirety by Germany to one of the Allied and Associated Powers, such stock shall be handed over complete, in accordance with the last inventory before November 11, 1918, and in a normal state of upkeep.

(3) As regards lines without any special rolling-stock, Commissions of experts designated by the Allied and Associated Powers, on which Germany shall be represented, shall fix the proportion of the stock existing on the system to which those lines belong to be handed over. These Commissions shall have regard to the amount of the material registered on these lines in the last inventory before November 11, 1918, the length of track (sidings included), and the nature and amount of the traffic. These Commissions shall also specify the locomotives, carriages and wagons to be handed over in each case; they shall decide upon the conditions of their acceptance, and shall make the provisional arrangements necessary to ensure their repair in German workshops.

(4) Stocks of stores, fittings and plant shall be handed over under the same conditions as the rolling-stock.

The provisions of paragraphs 3 and 4 above shall be applied to the lines of former Russian Poland converted by Germany to the German gauge, such lines being regarded as detached from the Prussian State System.

CHAPTER IV.

PROVISIONS RELATING TO CERTAIN RAILWAY LINES.

ARTICLE 372.

When as a result of the fixing of new frontiers a railway connection between two parts of the same country crosses another country, or a branch line from one country has its terminus in another, the conditions of working, if not specifically provided for in the present Treaty, shall be laid down in a convention between the railway administrations concerned. If the administrations cannot come to an agreement as to the terms of such convention, the points of difference shall be decided by commissions of experts composed as provided in the preceding Article.

ARTICLE 373.

Within a period of five years from the coming into force of the present Treaty the Czecho-Slovak State may require the construction of a railway line in German territory between the stations of Schlauney and Nachod. The cost of construction shall be borne by the Czecho-Slovak State.

ARTICLE 374.

Germany undertakes to accept, within ten years of the coming into force of the present Treaty, on request being made by the Swiss Government after agreement with the Italian Government, the denunciation of the International Convention of October 13, 1909, relative to the St. Gothard railway. In the absence of agreement as to the conditions of such denunciation, Germany hereby agrees to accept the decision of an arbitrator designated by the United States of America.

CHAPTER V.

TRANSITORY PROVISIONS. •

ARTICLE 375.

Germany shall carry out the instructions given her, in regard to transport, by an authorised body acting on behalf of the Allied and Associated Powers:

(1) For the carriage of troops under the provisions of the present Treaty, and of material, ammunition and supplies for army use;

(2) As a temporary measure, for the transportation of supplies for certain regions, as well as for the restoration, as rapidly as possible, of the normal conditions of transport, and for the organisation of postal and telegraphic services.

SECTION IV.

DISPUTES.

AND REVISION OF PERMANENT CLAUSES.

ARTICLE 376.

Disputes which may arise between interested Powers with regard to the interpretation and application of the preceding Articles shall be settled as provided by the League of Nations.

ARTICLE 377.

At any time the League of Nations may recommend the revision of such of these Articles as relate to a permanent administrative régime.

ARTICLE 378.

The stipulations in Articles 321 to 330, 332, 365, and 367 to 369 shall be subject to revision by the Council of the League of Nations at any time after five years from the coming into force of the present Treaty.

Failing such revision, no Allied or Associated Power can claim after the expiration of the above period of five years the benefit of any of the stipulations in the Articles enumerated above on behalf of any portion of its territories in which reciprocity is not accorded in respect of such stipulations. The period of five years during which reciprocity cannot be demanded may be prolonged by the Council of the League of Nations.

SECTION V.

SPECIAL PROVISION.

ARTICLE 379.

Without prejudice to the special obligations imposed on her by the present Treaty for the benefit of the Allied and Associated Powers, Germany undertakes to adhere to any General Conventions regarding the international régime of transit, waterways, ports or railways which may be concluded by the Allied and Associated Powers, with the approval of the League of Nations, within five years of the coming into force of the present Treaty.

SECTION VI.

CAUSES RELATING TO THE KIEL CANAL.

ARTICLE 380.

The Kiel Canal and its approaches shall be maintained free and open to the vessels of commerce and of war of all nations at peace with Germany on terms of entire equality.

ARTICLE 381.

The nationals, property and vessels of all Powers shall, in respect of charges, facilities, and in all other respects, be treated on a footing of perfect equality in the use of the Canal, no distinction being made to the detriment of nationals, property and vessels of any Power between them and the nationals, property and vessels of Germany or of the most favoured nation.

No impediment shall be placed on the movement of persons or vessels other than those arising out of police, customs, sanitary, emigration or immigration regulations and those relating to the import or export of prohibited goods. Such regulations must be reasonable and uniform and must not unnecessarily impede traffic.

ARTICLE 382.

Only such charges may be levied on vessels using the Canal or its approaches as are intended to cover in an equitable manner the cost of maintaining in a navigable condition, or of improving, the Canal or its approaches, or to meet expenses incurred in the interests of navigation. The schedule of such charges shall be calculated on the basis of such expenses, and shall be posted up in the ports.

These charges shall be levied in such a manner as to render any detailed examination of cargoes unnecessary, except in the case of suspected fraud or contravention.

ARTICLE 383.

Goods in transit may be placed under seal or in the custody of customs agents; the loading and unloading of goods, and the embarkation and disembarkation of passengers, shall only take place in the ports specified by Germany.

ARTICLE 384.

No charges of any kind other than those provided for in the present Treaty shall be levied along the course or at the approaches of the Kiel Canal.

ARTICLE 385.

Germany shall be bound to take suitable measures to remove any obstacle or danger to navigation, and to ensure the maintenance of good conditions of navigation. She shall not undertake any works of a nature to impede navigation on the Canal or its approaches.

ARTICLE 386.

In the event of violation of any of the conditions of Articles 380 to 386, or of disputes as to the interpretation of these Articles, any interested Power can appeal to the jurisdiction instituted for the purpose by the League of Nations.

In order to avoid reference of small questions to the League of Nations,

Germany will establish a local authority at Kiel qualified to deal with disputes in the first instance and to give satisfaction so far as possible to complaints which may be presented through the consular representatives of the interested Powers.

PART XIII.

LABOUR.

SECTION I.

ORGANISATION OF LABOUR.

Whereas the League of Nations has for its object the establishment of universal peace, and such a peace can be established only if it is based upon social justice;

And whereas conditions of labour exist involving such injustice, hardship and privation to large numbers of people as to produce unrest so great that the peace and harmony of the world are imperilled; and an improvement of those conditions is urgently required: as, for example, by the regulation of the hours of work, including the establishment of a maximum working day and week, the regulation of the labour supply, the prevention of unemployment, the provision of an adequate living wage, the protection of the worker against sickness, disease and injury arising out of his employment, the protection of children, young persons and women, provision for old age and injury, protection of the interests of workers when employed in countries other than their own, recognition of the principle of freedom of association, the organisation of vocational and technical education and other measures;

Whereas also the failure of any nation to adopt humane conditions of labour is an obstacle in the way of other nations which desire to improve the conditions in their own countries;

The HIGH CONTRACTING PARTIES, moved by sentiments of justice and humanity as well as by the desire to secure the permanent peace of the world, agree to the following:

CHAPTER I.

ORGANISATION.

ARTICLE 387.

A permanent organisation is hereby established for the promotion of the objects set forth in the Preamble.

The original Members of the League of Nations shall be the original Members of this organisation, and hereafter membership of the League of Nations shall carry with it membership of the said organisation.

ARTICLE 388.

The permanent organisation shall consist of:

- (1) a General Conference of Representatives of the Members and,
- (2) an International Labour Office controlled by the Governing Body described in Article 393.

ARTICLE 389.

The meetings of the General Conference of Representatives of the Members shall be held from time to time as occasion may require, and at least once in every year. It shall be composed of four Representatives of each of the Members, of whom two shall be Government Delegates and the two others shall be Delegates representing respectively the employers and the workpeople of each of the Members.

Each Delegate may be accompanied by advisers, who shall not exceed two in number for each item on the agenda of the meeting. When questions specially affecting women are to be considered by the Conference, one at least of the advisers should be a woman.

The members undertake to nominate non-Government Delegates and advisers chosen in agreement with the industrial organisations, if such organisations exist, which are most representative of employers or workpeople, as the case may be, in their respective countries.

Advisers shall not speak except on a request made by the Delegate whom they accompany and by the special authorization of the President of the Conference, and may not vote.

A Delegate may by notice in writing addressed to the President appoint one of his advisers to act as his deputy, and the adviser, while so acting, shall be allowed to speak and vote.

The names of the Delegates and their advisers will be communicated to the International Labour Office by the Government of each of the Members.

The credentials of Delegates and their advisers shall be subject to scrutiny by the Conference, which may, by two-thirds of the votes cast by the Delegates present, refuse to admit any Delegate or adviser whom it deems not to have been nominated in accordance with this Article.

ARTICLE 390.

Every Delegate shall be entitled to vote individually on all matters which are taken into consideration by the Conference.

If one of the Members fails to nominate one of the non-Government Delegates whom it is entitled to nominate, the other non-Government Delegate shall be allowed to sit and speak at the Conference, but not to vote.

If in accordance with Article 389 the Conference refuses admission to a Delegate of one of the Members, the provisions of the present Article shall apply as if that Delegate had not been nominated.

ARTICLE 391.

The meetings of the Conference shall be held at the seat of the League of Nations or at such other place as may be decided by the Conference at a previous meeting by two-thirds of the votes cast by the Delegates present.

ARTICLE 392.

The International Labour Office shall be established at the seat of the League of Nations as part of the organisation of the League.

ARTICLE 393.

The International Labour Office shall be under the control of a Governing Body consisting of twenty-four persons, appointed in accordance with the following provisions:

The Governing Body of the International Labour Office shall be constituted as follows:

Twelve persons representing the Governments;

Six persons elected by the Delegates to the Conference representing the employers;

Six persons elected by the Delegates to the Conference representing the workers.

Of the twelve persons representing the Governments eight shall be nominated by the Members which are of the chief industrial importance, and four shall be nominated by the Members selected for the purpose by the Government Delegates to the Conference, excluding the Delegates of the eight Members mentioned above.

Any question as to which are the Members of the chief industrial importance shall be decided by the Council of the League of Nations.

The period of office of the Members of the Governing Body will be three years. The method of filling vacancies and other similar questions may be determined by the Governing Body subject to the approval of the Conference.

The Governing Body shall, from time to time, elect one of its members to act as its Chairman, shall regulate its own procedure and shall fix its own times of meeting. A special meeting shall be held if a written request to that effect is made by at least ten members of the Governing Body.

ARTICLE 394.

There shall be a Director of the International Labour Office, who shall be appointed by the Governing Body, and, subject to the instructions of the Governing Body, shall be responsible for the efficient conduct of the International Labour Office and for such other duties as may be assigned to him.

The Director or his deputy shall attend all meetings of the Governing Body.

ARTICLE 395.

The staff of the International Labour Office shall be appointed by the Director, who shall, so far as is possible with due regard to the efficiency of the work of the Office, select persons of different nationalities. A certain number of these persons shall be women.

ARTICLE 396.

The functions of the International Labour Office shall include the collection and distribution of information on all subjects relating to the international adjustment of conditions of industrial life and labour, and particularly the examination of subjects which it is proposed to bring before the Conference with a view to the conclusion of international conventions, and the conduct of such special investigations as may be ordered by the Conference.

It will prepare the agenda for the meetings of the Conference.

It will carry out the duties required of it by the provisions of this Part of the present Treaty in connection with international disputes.

It will edit and publish in French and English, and in such other languages as the Governing Body may think desirable, a periodical paper dealing with problems of industry and employment of international interest.

Generally, in addition to the functions set out in this Article, it shall have such other powers and duties as may be assigned to it by the Conference.

ARTICLE 397.

The Government Departments of any of the Members which deal with questions of industry and employment may communicate directly with the Director through the Representative of their Government on the Governing Body of the International Labour Office, or failing any such Representative, through such other qualified official as the Government may nominate for the purpose.

ARTICLE 398.

The International Labour Office shall be entitled to the assistance of the Secretary-General of the League of Nations in any matter in which it can be given.

ARTICLE 399.

Each of the Members will pay the travelling and subsistence expenses of its Delegates and their advisers and of its Representatives attending the meetings of the Conference or Governing Body, as the case may be.

All the other expenses of the International Labour Office and of the meetings of the Conference or Governing Body shall be paid to the Director by the Secretary-General of the League of Nations out of the general funds of the League.

The Director shall be responsible to the Secretary-General of the League

for the proper expenditure of all moneys paid to him in pursuance of this Article.

CHAPTER II.

PROCEDURE.

ARTICLE 400.

The agenda for all meetings of the Conference will be settled by the Governing Body, who shall consider any suggestion as to the agenda that may be made by the Government of any of the Members or by any representative organisation recognised for the purpose of Article 389.

ARTICLE 401.

The Director shall act as the Secretary of the Conference, and shall transmit the agenda so as to reach the Members four months before the meeting of the Conference, and, through them, the non-Government Delegates when appointed.

ARTICLE 402.

Any of the Governments of the Members may formally object to the inclusion of any item or items in the agenda. The grounds for such objection shall be set forth in a reasoned statement addressed to the Director, who shall circulate it to all the Members of the Permanent Organisation.

Items to which such objection has been made shall not, however, be excluded from the agenda, if at the Conference a majority of two-thirds of the votes cast by the Delegates present is in favour of considering them.

If the Conference decides (otherwise than under the preceding paragraph) by two-thirds of the votes cast by the Delegates present that any subject shall be considered by the Conference, that subject shall be included in the agenda for the following meeting.

ARTICLE 403.

The Conference shall regulate its own procedure, shall elect its own President, and may appoint committees to consider and report on any matter.

Except as otherwise expressly provided in this Part of the present Treaty, all matters shall be decided by a simple majority of the votes cast by the Delegates present.

The voting is void unless the total number of votes cast is equal to half the number of the Delegates attending the Conference.

ARTICLE 404.

The Conference may add to any committees which it appoints technical experts, who shall be assessors without power to vote.

ARTICLE 405.

When the Conference has decided on the adoption of proposals with regard to an item in the agenda, it will rest with the Conference to determine whether these proposals should take the form: (a) of a recommendation to be submitted to the Members for consideration with a view to effect being given to it by national legislation or otherwise, or (b) of a draft international convention for ratification by the Members.

In either case a majority of two-thirds of the votes cast by the Delegates present shall be necessary on the final vote for the adoption of the recommendation or draft convention, as the case may be, by the Conference.

In framing any recommendation or draft convention of general application the Conference shall have due regard to those countries in which climatic conditions, the imperfect development of industrial organisation or other special circumstances make the industrial conditions substantially different and shall suggest the modifications, if any, which it considers may be required to meet the case of such countries.

A copy of the recommendation or draft convention shall be authenticated by the signature of the President of the Conference and of the Director and shall be deposited with the Secretary-General of the League of Nations. The Secretary-General will communicate a certified copy of the recommendation or draft convention to each of the Members.

Each of the Members undertakes that it will, within the period of one year at most from the closing of the session of the Conference, or if it is impossible owing to exceptional circumstances to do so within the period of one year, then at the earliest practicable moment and in no case later than eighteen months from the closing of the session of the Conference, bring the recommendation or draft convention before the authority or authorities within whose competence the matter lies, for the enactment of legislation or other action.

In the case of a recommendation, the Members will inform the Secretary-General of the action taken.

In the case of a draft convention, the Member will, if it obtains the consent of the authority or authorities within whose competence the matter lies, communicate the formal ratification of the convention to the Secretary-General and will take such action as may be necessary to make effective the provisions of such convention.

If on a recommendation no legislative or other action is taken to make a recommendation effective, or if the draft convention fails to obtain the consent of the authority or authorities within whose competence the matter lies, no further obligation shall rest upon the Member.

In the case of a federal State, the power of which to enter into conventions on labour matters is subject to limitations, it shall be in the discretion of that Government to treat a draft convention to which such limitations apply as a recommendation only, and the provisions of this Article with respect to recommendations shall apply in such case.

The above Article shall be interpreted in accordance with the following principle:

In no case shall any Member be asked or required, as a result of the adoption of any recommendation or draft convention by the Conference, to lessen the protection afforded by its existing legislation to the workers concerned.

ARTICLE 406.

Any convention so ratified shall be registered by the Secretary-General of the League of Nations, but shall only be binding upon the Members which ratify it.

ARTICLE 407.

If any convention coming before the Conference for final consideration fails to secure the support of two-thirds of the votes cast by the Delegates present, it shall nevertheless be within the right of any of the Members of the Permanent Organisation to agree to such convention among themselves.

Any convention so agreed to shall be communicated by the Governments concerned to the Secretary-General of the League of Nations, who shall register it.

ARTICLE 408.

Each of the Members agrees to make an annual report to the International Labour Office on the measures which it has taken to give effect to the provisions of conventions to which it is a party. These reports shall be made in such form and shall contain such particulars as the Governing Body may request. The Director shall lay a summary of these reports before the next meeting of the Conference.

ARTICLE 409.

In the event of any representation being made to the International Labour Office by an industrial association of employers or of workers that any of the Members has failed to secure in any respect the effective observance within its jurisdiction of any convention to which it is a party, the Governing Body may communicate this representation to the Government against which it is made and may invite that Government to make such statement on the subject as it may think fit.

ARTICLE 410.

If no statement is received within a reasonable time from the Government in question, or if the statement when received is not deemed to be satisfactory by the Governing Body, the latter shall have the right to publish the representation and the statement, if any, made in reply to it.

ARTICLE 411.

Any of the Members shall have the right to file a complaint with the International Labour Office if it is not satisfied that any other Member is se-

curing the effective observance of any convention which both have ratified in accordance with the foregoing Articles.

The Governing Body may, if it thinks fit, before referring such a complaint to a Commission of Enquiry, as hereinafter provided for, communicate with the Government in question in the manner described in Article 409.

If the Governing Body does not think it necessary to communicate the complaint to the Government in question, or if, when they have made such communication, no statement in reply has been received within a reasonable time which the Governing Body considers to be satisfactory, the Governing Body may apply for the appointment of a Commission of Enquiry to consider the complaint and to report thereon.

The Governing Body may adopt the same procedure either of its own motion or on receipt of a complaint from a Delegate to the Conference.

When any matter arising out of Articles 410 or 411 is being considered by the Governing Body, the Government in question shall, if not already represented thereon, be entitled to send a representative to take part in the proceedings of the Governing Body while the matter is under consideration. Adequate notice of the date on which the matter will be considered shall be given to the Government in question.

ARTICLE 412.

The Commission of Enquiry shall be constituted in accordance with the following provisions:

Each of the Members agrees to nominate within six months of the date on which the present Treaty comes into force three persons of industrial experience, of whom one shall be a representative of employers, one a representative of workers, and one a person of independent standing, who shall together form a panel from which the Members of the Commission of Enquiry shall be drawn.

The qualifications of the persons so nominated shall be subject to scrutiny by the Governing Body, which may by two-thirds of the votes cast by the representatives present refuse to accept the nomination of any person whose qualifications do not in its opinion comply with the requirements of the present Article.

Upon the application of the Governing Body, the Secretary-General of the League of Nations shall nominate three persons, one from each section of this panel, to constitute the Commission of Enquiry, and shall designate one of them as the President of the Commission. None of these three persons shall be a person nominated to the panel by any Member directly concerned in the complaint.

ARTICLE 413.

The Members agree that, in the event of the reference of a complaint to a Commission of Enquiry under Article 411, they will each, whether directly concerned in the complaint or not, place at the disposal of the Commission

all the information in their possession which bears upon the subject-matter of the complaint.

ARTICLE 414.

When the Commission of Enquiry has fully considered the complaint, it shall prepare a report embodying its findings on all questions of fact relevant to determining the issue between the parties and containing such recommendations as it may think proper as to the steps which should be taken to meet the complaint and the time within which they should be taken.

It shall also indicate in this report the measures, if any, of an economic character against a defaulting Government which it considers to be appropriate, and which it considers other Governments would be justified in adopting.

ARTICLE 415.

The Secretary-General of the League of Nations shall communicate the report of the Commission of Enquiry to each of the Governments concerned in the complaint, and shall cause it to be published.

Each of these Governments shall within one month inform the Secretary-General of the League of Nations whether or not it accepts the recommendations contained in the report of the Commission; and if not, whether it proposes to refer the complaint to the Permanent Court of International Justice of the League of Nations.

ARTICLE 416.

In the event of any Member failing to take the action required by Article 405, with regard to a recommendation or draft Convention, any other Member shall be entitled to refer the matter to the Permanent Court of International Justice.

ARTICLE 417.

The decision of the Permanent Court of International Justice in regard to a complaint or matter which has been referred to it in pursuance of Article 415 or Article 416 shall be final.

ARTICLE 418.

The Permanent Court of International Justice may affirm, vary or reverse any of the findings or recommendations of the Commission of Enquiry, if any, and shall in its decision indicate the measures, if any, of an economic character which it considers to be appropriate, and which other Governments would be justified in adopting against a defaulting Government.

ARTICLE 419.

In the event of any Member failing to carry out within the time specified the recommendations, if any, contained in the report of the Commission of Enquiry, or in the decision of the Permanent Court of International Justice,

as the case may be, any other Member may take against that Member the measures of an economic character indicated in the report of the Commission or in the decision of the Court as appropriate to the case.

ARTICLE 420.

The defaulting Government may at any time inform the Governing Body that it has taken the steps necessary to comply with the recommendations of the Commission of Enquiry or with those in the decision of the Permanent Court of International Justice, as the case may be, and may request it to apply to the Secretary-General of the League to constitute a Commission of Enquiry to verify its contention. In this case the provisions of Articles 412, 413, 414, 415, 417 and 418 shall apply, and if the report of the Commission of Enquiry or the decision of the Permanent Court of International Justice is in favour of the defaulting Government, the other Governments shall forthwith discontinue the measures of an economic character that they have taken against the defaulting Government.

CHAPTER III.

GENERAL.

ARTICLE 421.

The Members engage to apply conventions which they have ratified in accordance with the provisions of this Part of the present Treaty to their colonies, protectorates and possessions which are not fully self-governing.

(1) Except where owing to the local conditions the convention is inapplicable, or

(2) Subject to such modifications as may be necessary to adapt the convention to local conditions.

And each of the Members shall notify to the International Labour Office the action taken in respect of each of its colonies, protectorates and possessions which are not fully self-governing.

ARTICLE 422.

Amendments to this Part of the present Treaty which are adopted by the Conference by a majority of two-thirds of the votes cast by the Delegates present shall take effect when ratified by the States whose representatives compose the Council of the League of Nations and by three-fourths of the Members.

ARTICLE 423.

Any question or dispute relating to the interpretation of this Part of the present Treaty or of any subsequent convention concluded by the Members in pursuance of the provisions of this Part of the present Treaty shall be referred for decision to the Permanent Court of International Justice.

CHAPTER IV.

TRANSITORY PROVISIONS.

ARTICLE 424.

The first meeting of the Conference shall take place in October, 1919. The place and agenda for this meeting shall be as specified in the Annex hereto.

Arrangements for the convening and the organisation of the first meeting of the Conference will be made by the Government designated for the purpose in the said Annex. That Government shall be assisted in the preparation of the documents for submission to the Conference by an International Committee constituted as provided in the said Annex.

The expenses of the first meeting and of all subsequent meetings held before the League of Nations has been able to establish a general fund, other than the expenses of Delegates and their advisers, will be borne by the Members in accordance with the apportionment of the expenses of the International Bureau of the Universal Postal Union.

ARTICLE 425.

Until the League of Nations has been constituted all communications which under the provisions of the foregoing Articles should be addressed to the Secretary-General of the League will be preserved by the Director of the International Labour Office, who will transmit them to the Secretary-General of the League.

ARTICLE 426.

Pending the creation of a Permanent Court of International Justice disputes which in accordance with this Part of the present Treaty would be submitted to it for decision will be referred to a tribunal of three persons appointed by the Council of the League of Nations.

ANNEX.

FIRST MEETING OF ANNUAL LABOUR CONFERENCE, 1919.

The place of meeting will be Washington.

The Government of the United States of America is requested to convene the Conference.

The International Organising Committee will consist of seven Members, appointed by the United States of America, Great Britain, France, Italy, Japan, Belgium and Switzerland. The Committee may, if it thinks necessary, invite other Members to appoint representatives.

Agenda:

- (1) Application of principle of the 8-hours day or of the 48-hours week.
- (2) Question of preventing or providing against unemployment.

- (3) Women's employment:
 - (a) Before and after child-birth, including the question of maternity benefit;
 - (b) During the night;
 - (c) In unhealthy processes.
- (4) Employment of children:
 - (a) Minimum age of employment;
 - (b) During the night;
 - (c) In unhealthy processes.
- (5) Extension and application of the International Conventions adopted at Berne in 1906 on the prohibition of night work for women employed in industry and the prohibition of the use of white phosphorus in the manufacture of matches.

SECTION II.

GENERAL PRINCIPLES.

ARTICLE 427.

The High Contracting Parties, recognising that the well-being, physical, moral and intellectual, of industrial wage-earners is of supreme international importance, have framed, in order to further this great end, the permanent machinery provided for in Section I and associated with that of the League of Nations.

They recognise that differences of climate, habits and customs, of economic opportunity and industrial tradition, make strict uniformity in the conditions of labour difficult of immediate attainment. But, holding as they do, that labour should not be regarded merely as an article of commerce, they think that there are methods and principles for regulating labour conditions which all industrial communities should endeavour to apply, so far as their special circumstances will permit.

Among these methods and principles, the following seem to the High Contracting Parties to be of special and urgent importance:

First.—The guiding principle above enunciated that labour should not be regarded merely as a commodity or article of commerce.

Second.—The right of association for all lawful purposes by the employed as well as by the employers.

Third.—The payment to the employed of a wage adequate to maintain a reasonable standard of life as this is understood in their time and country.

Fourth.—The adoption of an eight hours day or a forty-eight hours week as the standard to be aimed at where it has not already been attained.

Fifth.—The adoption of a weekly rest of at least twenty-four hours, which should include Sunday wherever practicable.

Sixth.—The abolition of child labour and the imposition of such limitations on the labour of young persons as shall permit the continuation of their education and assure their proper physical development.

Seventh.—The principle that men and women should receive equal remuneration for work of equal value.

Eighth.—The standard set by law in each country with respect to the conditions of labour should have due regard to the equitable economic treatment of all workers lawfully resident therein.

Ninth.—Each State should make provision for a system of inspection in which women should take part, in order to ensure the enforcement of the laws and regulations for the protection of the employed.

Without claiming that these methods and principles are either complete or final, the High Contracting Parties are of opinion that they are well fitted to guide the policy of the League of Nations; and that, if adopted by the industrial communities who are members of the League, and safeguarded in practice by an adequate system of such inspection, they will confer lasting benefits upon the wage-earners of the world.

PART XIV.

GUARANTEES.

SECTION I.

WESTERN EUROPE.

ARTICLE 428.

As a guarantee for the execution of the present Treaty by Germany, the German territory situated to the west of the Rhine, together with the bridge-heads, will be occupied by Allied and Associated troops for a period of fifteen years from the coming into force of the present Treaty.

ARTICLE 429.

If the conditions of the present Treaty are faithfully carried out by Germany, the occupation referred to in Article 428 will be successively restricted as follows:

(1) At the expiration of five years there will be evacuated: the bridge-head of Cologne and the territories north of a line running along the Ruhr, then along the railway Jülich, Duren. Euskirchen, Rheinbach, thence along the road Rheinbach to Sinzig, and reaching the Rhine at the confluence with the Ahr; the roads, railways and places mentioned above being excluded from the area evacuated.

(2) At the expiration of ten years there will be evacuated: the bridge-head of Coblenz and the territories north of a line to be drawn from the intersection between the frontiers of Belgium, Germany and Holland, running about from 4 kilometres south of Aix la-Chapelle, then to and following the crest of Forst Gemünd, then east of the railway of the Urft Valley, then along Blankenheim, Valdorf, Dreis, Ulmen to and following the

Moselle from Bremm to Nehren, then passing by Kappel and Simmern, then following the ridge of the heights between Simmern and the Rhine and reaching this river at Bacharach; all places, valleys, roads and railways mentioned above being excluded from the area evacuated.

(3) At the expiration of fifteen years there will be evacuated: the bridgehead of Mainz, the bridgehead of Kehl and the remainder of the German territory under occupation.

If at that date the guarantees against unprovoked aggression by Germany are not considered sufficient by the Allied and Associated Governments, the evacuation of the occupying troops may be delayed to the extent regarded as necessary for the purpose of obtaining the required guarantees.

ARTICLE 430.

In case either during the occupation or after the expiration of the fifteen years referred to above the Reparation Commission finds that Germany refuses to observe the whole or part of her obligations under the present Treaty with regard to reparation, the whole or part of the areas specified in Article 429 will be re-occupied immediately by the Allied and Associated forces.

ARTICLE 431.

If before the expiration of the period of fifteen years Germany complies with all the undertakings resulting from the present Treaty, the occupying forces will be withdrawn immediately.

ARTICLE 432.

All matters relating to the occupation and not provided for by the present Treaty shall be regulated by subsequent agreements, which Germany hereby undertakes to observe.

SECTION II.

EASTERN EUROPE.

ARTICLE 433.

As a guarantee for the execution of the provisions of the present Treaty, by which Germany accepts definitely the abrogation of the Brest-Litovsk Treaty, and of all treaties, conventions and agreements entered into by her with the Maximalist Government in Russia, and in order to ensure the restoration of peace and good government in the Baltic Provinces and Lithuania, all German troops at present in the said territories shall return to within the frontiers of Germany as soon as the Governments of the Principal Allied and Associated Powers shall think the moment suitable, having regard to the internal situation of these territories. These troops shall abstain from all requisitions and seizures and from any other coercive measures, with a

view to obtaining supplies intended for Germany, and shall in no way interfere with such measures for national defence as may be adopted by the Provisional Governments of Esthonia, Latvia and Lithuania.

No other German troops shall, pending the evacuation or after the evacuation is complete, be admitted to the said territories.

PART XV.

MISCELLANEOUS PROVISIONS.

ARTICLE 434.

Germany undertakes to recognise the full force of the Treaties of Peace and Additional Conventions which may be concluded by the Allied and Associated Powers with the Powers who fought on the side of Germany and to recognise whatever dispositions may be made concerning the territories of the former Austro-Hungarian Monarchy, of the Kingdom of Bulgaria and of the Ottoman Empire, and to recognise the new States within their frontiers as there laid down.

ARTICLE 435.

The High Contracting Parties, while they recognize the guarantees stipulated by the Treaties of 1815, and especially by the Act of November 20, 1815, in favour of Switzerland, the said guarantees constituting international obligations for the maintenance of peace, declare nevertheless that the provisions of these treaties, conventions, declarations and other supplementary Acts concerning the neutralized zone of Savoy, as laid down in paragraph 1 of Article 92 of the Final Act of the Congress of Vienna and in paragraph 2 of Article 3 of the Treaty of Paris of November 20, 1815, are no longer consistent with present conditions. For this reason the High Contracting Parties take note of the agreement reached between the French Government and the Swiss Government for the abrogation of the stipulations relating to this zone which are and remain abrogated.

The High Contracting Parties also agree that the stipulations of the Treaties of 1815 and of the other supplementary Acts concerning the free zones of Upper Savoy and the Gex district are no longer consistent with present conditions, and that it is for France and Switzerland to come to an agreement together with a view to settling between themselves the status of these territories under such conditions as shall be considered suitable by both countries.

ANNEX.

I

The Swiss Federal Council has informed the French Government on May 5, 1919, that after examining the provisions of Article 435 in a like spirit of sincere friendship it has happily reached the conclusion that it was possible

to acquiesce in it under the following conditions and reservations:

(1) The neutralized zone of Haute-Savoie:

(a) It will be understood that as long as the Federal Chambers have not ratified the agreement come to between the two Governments concerning the abrogation of the stipulations in respect of the neutralized zone of Savoy, nothing will be definitively settled, on one side or the other, in regard to this subject.

(b) The assent given by the Swiss Government to the abrogation of the above-mentioned stipulations presupposes, in conformity with the text adopted, the recognition of the guarantees formulated in favour of Switzerland by the Treaties of 1815 and particularly by the Declaration of November 20, 1815.

(c) The agreement between the Governments of France and Switzerland for the abrogation of the above-mentioned stipulations will only be considered as valid if the Treaty of Peace contains this Article in its present wording. In addition the Parties to the Treaty of Peace should endeavour to obtain the assent of the signatory Powers of the Treaties of 1815 and of the Declaration of November 20, 1815, which are not signatories of the present Treaty of Peace.

(2) Free zone of Haute-Savoie and the district of Gex:

(a) The Federal Council makes the most express reservations to the interpretation to be given to the statement mentioned in the last paragraph of the above Article for insertion in the Treaty of Peace, which provides that "the stipulations of the Treaties of 1815 and other supplementary acts concerning the free zones of Haute-Savoie and the Gex district are no longer consistent with present conditions." The Federal Council would not wish that its acceptance of the above wording should lead to the conclusion that it would agree to the suppression of a system intended to give neighbouring territory the benefit of a special régime which is appropriate to the geographical and economical situation and which has been well tested.

In the opinion of the Federal Council the question is not the modification of the customs system of the zones as set up by the Treaties mentioned above, but only the regulation in a manner more appropriate to the economic conditions of the present day of the terms of the exchange of goods between the regions in question. The Federal Council has been led to make the preceding observations by the perusal of the draft Convention concerning the future constitution of the zones which was annexed to the note of April 26 from the French Government. While making the above reservations the Federal Council declares its readiness to examine in the most friendly spirit any proposals which the French Government may deem it convenient to make on the subject.

(b) It is conceded that the stipulations of the Treaties of 1815 and other supplementary acts relative to the free zones will remain in force until a new arrangement is come to between France and Switzerland to regulate matters in this territory.

II

The French Government have addressed to the Swiss Government, on May 18, 1919, the following note in reply to the communication set out in the preceding paragraph:

In a note dated May 5 the Swiss Legation in Paris was good enough to inform the Government of the French Republic that the Federal Government adhered to the proposed Article to be inserted in the Treaty of Peace between the Allied and Associated Governments and Germany.

The French Government have taken note with much pleasure of the agreement thus reached, and, at their request, the proposed Article, which had been accepted by the Allied and Associated Governments, has been inserted under No. 435 in the Peace conditions presented to the German Plenipotentiaries.

The Swiss Government, in their note of May 5 on this subject, have expressed various views and reservations.

Concerning the observations relating to the free zones of Haute-Savoie and the Gex district, the French Government have the honour to observe that the provisions of the last paragraph of Article 435 are so clear that their purport cannot be misapprehended, especially where it implies that no other Power but France and Switzerland will in future be interested in that question.

The French Government, on their part, are anxious to protect the interests of the French territories concerned, and, with that object, having their special situation in view, they bear in mind the desirability of assuring them a suitable customs régime and determining, in a manner better suited to present conditions, the methods of exchanges between these territories and the adjacent Swiss territories, while taking into account the reciprocal interests of both regions.

It is understood that this must in no way prejudice the right of France to adjust her customs line in this region in conformity with her political frontiers, as is done on the other portions of her territorial boundaries, and as was done by Switzerland long ago on her own boundaries in this region.

The French Government are pleased to note on this subject in what a friendly disposition the Swiss Government take this opportunity of declaring their willingness to consider any French proposal dealing with the system to be substituted for the present régime of the said free zones, which the French Government intend to formulate in the same friendly spirit.

Moreover, the French Government have no doubt that the provisional maintenance of the régime of 1815 as to the free zones referred to in the above-mentioned paragraph of the note from the Swiss Legation of May 5, whose object is to provide for the passage from the present régime to the conventional régime, will cause no delay whatsoever in the establishment of the new situation which has been found necessary by the two Governments. This remark applies also to the ratification by the Federal Chambers, dealt with in paragraph 1 (a), of the Swiss note of May 5, under the heading "Neutralized zone of Haute-Savoie."

ARTICLE 436.

The High Contracting Parties declare and place on record that they have taken note of the Treaty signed by the Government of the French Republic on July 17, 1918, with His Serene Highness the Prince of Monaco defining the relations between France and the Principality.

ARTICLE 437.

The High Contracting Parties agree that, in the absence of a subsequent agreement to the contrary, the Chairman of any Commission established by the present Treaty shall in the event of an equality of votes be entitled to a second vote.

ARTICLE 438.

The Allied and Associated Powers agree that where Christian religious missions were being maintained by German societies or persons in territory belonging to them, or of which the government is entrusted to them in accordance with the present Treaty, the property which these missions or missionary societies possessed, including that of trading societies whose profits were devoted to the support of missions, shall continue to be devoted to missionary purposes. In order to ensure the due execution of this undertaking the Allied and Associated Governments will hand over such property to boards of trustees appointed by or approved by the Governments and composed of persons holding the faith of the Mission whose property is involved.

The Allied and Associated Governments, while continuing to maintain full control as to the individuals by whom the Missions are conducted, will safeguard the interests of such Missions.

Germany, taking note of the above undertaking, agrees to accept all arrangements made or to be made by the Allied or Associated Government concerned for carrying on the work of the said missions or trading societies and waives all claims on their behalf.

ARTICLE 439.

Without prejudice to the provisions of the present Treaty, Germany undertakes not to put forward directly or indirectly against any Allied or Associated Power, signatory of the present Treaty, including those which without having declared war, have broken off diplomatic relations with the German Empire, any pecuniary claim based on events which occurred at any time before the coming into force of the present Treaty.

The present stipulation will bar completely and finally all claims of this nature, which will be thenceforward extinguished, whoever may be the parties in interest.

ARTICLE 440.

Germany accepts and recognises as valid and binding all decrees and orders concerning German ships and goods and all orders relating to the payment of costs made by any Prize Court of any of the Allied or Associated Powers, and undertakes not to put forward any claim arising out of such decrees or orders on behalf of any German national.

The Allied and Associated Powers reserve the right to examine in such manner as they may determine all decisions and orders of German Prize Courts, whether affecting the property rights of nationals of those Powers or of neutral Powers. Germany agrees to furnish copies of all the documents constituting the record of the cases, including the decisions and orders made, and to accept and give effect to the recommendations made after such examination of the cases.

THE PRESENT TREATY, of which the French and English texts are both authentic, shall be ratified.

The deposit of ratifications shall be made at Paris as soon as possible.

Powers of which the seat of the Government is outside Europe will be entitled merely to inform the Government of the French Republic through their diplomatic representative at Paris that their ratification has been given; in that case they must transmit the instrument of ratification as soon as possible.

A first *procès-verbal* of the deposit of ratifications will be drawn up as soon as the Treaty has been ratified by Germany on the one hand, and by three of the Principal Allied and Associated Powers on the other hand.

From the date of this first *procès-verbal* the Treaty will come into force between the High Contracting Parties who have ratified it. For the determination of all periods of time provided for in the present Treaty this date will be the date of the coming into force of the Treaty.

In all other respects the Treaty will enter into force for each Power at the date of the deposit of its ratification.

The French Government will transmit to all the signatory Powers a certified copy of the *procès-verbaux* of the deposit of ratifications.

IN FAITH WHEREOF the above-named Plenipotentiaries have signed the present Treaty.

Done at Versailles, the twenty-eighth day of June, one thousand nine hundred and nineteen, in a single copy which will remain deposited in the archives of the French Republic, and of which authenticated copies will be transmitted to each of the Signatory Powers. (1)

(1) Senate Document No. 49, 66th Congress, 1st Session.

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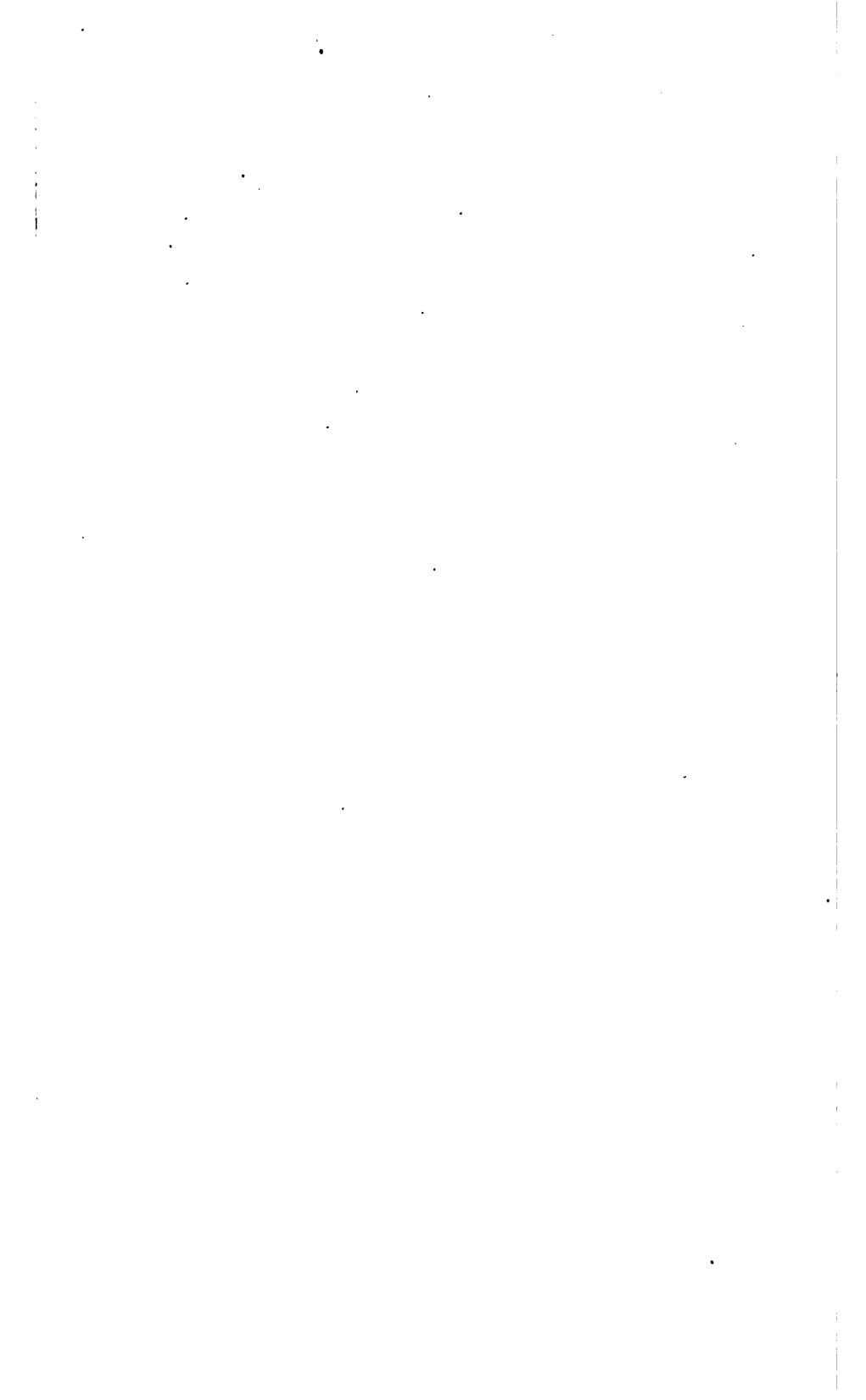
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